रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-सा.-19112022-240445
CG-DL-W-19112022-240445

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 44] नई दिल्ली, अक्तूबर 30—नवम्बर 5, 2022, शनिवार/ कार्तिक 8—कार्तिक 14, 1944
No. 44] NEW DELHI, OCTOBER 30—NOVEMBER 5, 2022, SATURDAY/KARTIKA 8— KARTIKA 14, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 1 नवम्बर, 2022

का.आ. 1076.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में राजस्व विभाग के अधीन, केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड, नॉर्थ ब्लॉक, नई दिल्ली, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई-11017/3/2017- हिन्दी-2 डीओआर]

नीहारिका सिंह, निदेशक (राजभाषा)

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 1st November, 2022

S.O. 1076.— In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government, hereby notifies, Office of The Central Board of Indirect taxes and Customs, North Block, New Delhi, under Department of Revenue, where more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E-11017/3/2017-Hindi-II DOR]

NIHARIKA SINGH, Director (OL)

कोयला मंत्रालय

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1077.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत के राजपत्र, भाग II, खण्ड 3 उप-खण्ड (ii), तारीख 16 जुलाई, 2022 द्वारा प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 645, तारीख 8 जुलाई, 2022, के प्रकाशन पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात उक्त भूमि कहा गया है) और भूमि में या उस पर के सभी अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लगंमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए हैं ;

और केन्द्रीय सरकार का यह समाधान हो गया है कि सेंट्रल कोलफील्ड्स लिमिटेड, राँची, झारखंड (जिसे इसमें इसके पश्चात सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए इच्छुक है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि की माप 719.66 एकड़ (लगभग) अथवा 291.24 हेक्टेयर (लगभग) में या उस पर के सभी अधिकार तारीख 16 जुलाई, 2022 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, निम्नलिखित निबन्धनों और शर्तों के अधीन रहते हुए सरकारी कंपनी में निहित हो जाएंगे, अर्थात: -

(1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन और अन्य सुसंगत विधियों के अधीन यथा अवधारित सभी प्रतिकर, ब्याज, नुकसानियों, इत्यादि और वैसी ही मदों की बाबत सभी संदाय करेगी;

(2) संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा, सरकारी कंपनी द्वारा शर्त (1) के अधीन तथा ऐसे किसी अधिकरण और उक्त अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपील, आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे;

(3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्ही कार्यवाहियों के संबंध में आवश्यक हो;

(4) सरकारी कंपनी के पास उक्त भूमि और उक्त भूमि में इस प्रकार निहित अधिकारों को केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और

(5) सरकारी कंपनी, ऐसे निर्देशों और शर्तो का पालन करेगी, जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिये जाएं या अधिरोपित किए जाएं।

[फा. सं. 43015/17/2019-एलएएण्डआईआर]

राम शिरोमणि सरोज, निदेशक

MINISTRY OF COAL

New Delhi, the 3rd November, 2022

S.O. 1077.—Whereas, on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 645, dated the 8th July, 2022, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 16th July, 2022, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and all rights in or over the lands described in the Schedule appended to the said notification (hereinafter referred to as the said lands) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And, whereas, the Central Government is satisfied that the Central Coalfields Limited, Ranchi, Jharkhand (hereinafter referred to as the Government company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said land measuring 719.66 acres (approximately) or 291.24 hectares (approximately) and all rights in or over the said lands so vested, shall with effect from 16th July, 2022, instead of continuing to so vest in the Central Government, shall vest in the Government company, subject to the following terms and conditions, namely:-

(1) The Government company shall make all payments in respect of compensation, interest, damages, etc. and the like, as determined under the provisions of the said Act and other relevant laws ;

(2) A Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable by the Government company under condition (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the said Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands, so vested, shall also be borne by the Government company;

(3) The Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said land so vested;

(4) The Government company shall have no power to transfer the aforesaid rights in the said lands, so vested, to any other person without the prior approval of the Central Government; and

(5) The Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/17/2019-LA&IR]

RAM SHIROMANI SAROJ, Director

श्रम और रोजगार मंत्रालय

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1078.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती जमुनाबेन अनिलभाई, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 32/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/38/2018-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 21st October, 2022

S.O. 1078.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Jamunaben Anilbhai, worker ,which was received along with soft copy of the award by the Central Government on 16.09.2022.

[No. L-42012/38/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 32/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001
2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001
3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Jamunaben Anilbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval
For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/38/2018-IR (DU) dated 08.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of Indian Council of Agriculture Research (DGR), Junagadh, Gujarat in terminating the services of workmen namely Smt. Jamunaben Anilbhai w.e.f. 01.01.2014 who was working as casual labour w.e.f. 19.01.2009 is legal and justified? If not, what relief this workman is entitled to?"

1. The reference was received in this Tribunal on 21.05.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1079.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती गीताबेन सोमाभाई, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 33/2018) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/47/2018-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1079.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Geetaben Somabhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/47/2018- IR (DU)]

D. K.HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 33/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001

2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Geetaben Somabhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval
For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/47/2018-IR (DU) dated 08.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of Indian Council of Agriculture Research (DGR), Junagadh, Gujarat in terminating the services of workmen namely Smt. Geetaben Somabhai w.e.f. 01.01.2014 who was working as casual labour / temporary workmen w.e.f. 27.01.1985 is legal and justified? If not, what relief this workman is entitled to?"

1. The reference was received in this Tribunal on 21.05.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1080.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती हंसाबेन जयेशभाई, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 34/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/49/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1080.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Hansaben Jayeshbhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/49/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present: Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 34/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001
2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001
3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Hansaben Jayeshbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/49/2018-IR (DU) dated 09.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of Indian Council of Agriculture Research (DGR), Junagadh, Gujarat in terminating the services of workmen namely Smt. Hansaben Jayeshbhai w.e.f. 01.01.2014 who was working as casual labour w.e.f. 02.07.2009 is legal and justified? If not, what relief this workman is entitled to?"

1. The reference was received in this Tribunal on 21.05.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1081.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्री नरेंद्र कमलेशभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 35/2018) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/65/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st. October, 2022

S.O. 1081.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Shri Narendra Kamleshbhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/65/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMADABAD

Present: Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 35/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001

2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Sh. Narendra Kamleshbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/65/2018-IR (DU) dated 08.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of Indian Council of Agriculture Research (DGR), Junagadh, Gujarat in terminating the services of workmen namely Sh. Narendra Kamleshbhai w.e.f. 01.01.2014 who was working as casual labour w.e.f. 30.05.2009 is legal and justified? If not, what relief this workman is entitled to?"

1. The reference was received in this Tribunal on 21.05.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का..आ. 1082.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद्, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्री हाजरा गुलमोहम्मद, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 36/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/39/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1082.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Shri Hajra Gulmohammad, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/39/2018- IR-(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 36/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001
2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001
3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Sh. Hajra Gulmohammad,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/39/2018-IR (DU) dated 08.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of Indian Council of Agriculture Research (DGR), Junagadh, Gujarat in terminating the services of workmen namely Sh. Hajra Gulmohammad w.e.f. 01.01.2014 who was working as casual labour w.e.f. 01.12.1985 is legal and justified? If not, what relief this workman is entitled to?"

1. The reference was received in this Tribunal on 21.05.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1083.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती नंदूबेन रामजीभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 37/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/66/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1083.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Nanduben Ramjibhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/66/2018- IR-(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 37/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 36200 ... First Parties

V/s

Smt. Nanduben Ramjibhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/66/2018-IR (DU) dated 14.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of Indian Council of Agriculture Research (DGR), Junagadh, Gujarat in terminating the services of workmen namely Smt. Nanduben Ramjibhai w.e.f. 01.01.2014 who was working as casual labour w.e.f. 01.06.1993 is legal and justified? If not, what relief this workman is entitled to?"

1. The reference was received in this Tribunal on 21.05.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर,2022

का.आ. 1084.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती रमीलाबेन प्रफुलभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 40/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/40/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1084.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Ramilaben Prafulbhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/40/2018- IR -(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 40/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Ramilaben Prafulbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/40/2018-IR (DU) dated 29.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Ramilaben Prafulbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 22.11.2008) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1085.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती चंपाबेन रमेशभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 41/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/41/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1085.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Champaben Rameshbhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/41/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 41/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Champaben Rameshbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/41/2018-IR (DU) dated 29.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Champaben Rameshbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 10.09.1993) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1086.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद्, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती प्रभाबेन देवशीभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 42/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/43/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1086.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Prabhaben Devshibhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/43/2018- IR (DU)]

D. K. HIMANSHU, Under Secry.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 42/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Prabhaben Devshibhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/43/2018-IR (DU) dated 28.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Prabhaben Devshibhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 16.06.1994) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1087.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद्, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती शांताबेन ईश्वरभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 43/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/44/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1087.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Shantaben Ishvarbhai, worker , which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/44/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 43/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Shantaben Ishvarbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/44/2018-IR (DU) dated 28.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Shantaben Ishvarbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 30.07.2009) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1088.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती ज्योत्सनाबेन मंगनभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 44/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/45/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1088.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Jyotsnaben Manganbhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/45/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXUR

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 44/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001

2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Jyotsnaben Manganbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred

the below mentioned dispute vide reference adjudication Order No. L-42012/45/2018-IR (DU) dated 28.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Jyotsnaben Manganbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 16.01.1989) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1089.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती जसुबेन तंभाभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 46/2018) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/51/2018 - आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1089.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Jasuben Tambhabhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/51/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 46/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Jasuben Tambhabhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/51/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Jasuben Tambhabhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 29.07.2009) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1090.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती जुमीबेन कसमभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 47/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/52/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1090.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Jumiben Kasambhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/52/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 47/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001

2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Jumiben Kasambhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/52/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Jumiben Kasambhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 01.05.1993) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1091.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्री खोदीदास उगाभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 48/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/56/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1091.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 48/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Shri Khodidas Ugabhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/56/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 48/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Shri Khodidas Ugabhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/56/2018-IR (DU) dated 28.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Shri Khodidas Ugabhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 05.01.2009) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1092.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती प्रभाबेन करसनभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट(संदर्भ संख्या 49/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/57/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1092.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Prabhaben Karsanbhai, worker, which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/57/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 49/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001
2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001
3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Prabhaben Karsanbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/57/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Prabhaben Karsanbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 05.08.1995) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1093.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती गीताबेन किशोरभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट(संदर्भ संख्या 50/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/58/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1093.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Geetaben Kishorbhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L-42012/58/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 50/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Geetaben Kishorbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/58/2018-IR (DU) dated 28.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Geetaben Kishorbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 07.07.2009) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1094.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती जीवतिबेन काराभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 51/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/59/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1094.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Jivtiben Karabhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/59/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 51/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001
2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001
3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Jivtiben Karabhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/59/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Jivtiben Karabhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 13.07.1995) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1095.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती लीलाबेन अर्जनभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 52/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/60/2018 - आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1095.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 52/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Leelaben Arjanbhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/60/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 52/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Leelaben Arjanbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/60/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Leelaben Arjanbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 05.08.1995) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1096.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती उर्मिलाबेन भीकुभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 54/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/62/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1096.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 54/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Urmilaben Bhikubhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/62/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 54/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001
2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001
3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Urmilaben Bhikubhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/62/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, File No. L-42012/62/2018-IR(DU) namely Smt. Urmilaben Bhikubhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 26.09.2009) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1097.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती मंजुलाबेन हीराभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 55/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/63/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1097.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Manjulaben Hirabhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/63/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 55/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Smt. Manjulaben Hirabhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/63/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Manjulaben Hirabhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 16.06.1989) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1098.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती सोमीबेन मंगाभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 56/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल-42012/64/2018 - आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1098.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Somiben Mangabhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/64/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present : Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 56/2018

1. The Indian Council of Agricultural Research,
   DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
   New Delhi – 110001
2. The Director of Groundnut Research,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road, Junagadh – 362001
3. The Administrative Officer,
   National Research Centre for Groundnut,
   Post Box No. 05, Ivanagar Road,
   Junagadh – 362001 ... First Parties

V/s

Smt. Somiben Mangabhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/64/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Smt. Somiben Mangabhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 07.06.1991) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1099.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़ , के प्रबंधतंत्र के संबद्ध नियोजकों और श्री जयंतीभाई हमीरभाई, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद पंचाट (संदर्भ संख्या 57/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/67/2018- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1099.— In pursuance of Section 17 of the Industrial DisputeS Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57/2018) of the Central Government Industrial Tribunal-cum -Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, New Delhi ;The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Shri Jayantibhai Hamirbhai, worker ,which was received along with soft copy of the award by the Central Government on 16/09/2022.

[No. L- 42012/67/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMADABAD

Present: Radha Mohan Chaturvedi, Presiding Officer

Dated 13th July, 2022

Reference (CGITA) No. - 57/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan, Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road, Junagadh – 362001

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No. 05, Ivanagar Road,
Junagadh – 362001 ... First Parties

V/s

Shri Jayantibhai Hamirbhai,
Ivanagar, Vankarvas, Via Timbawadi,
Junagadh – 362001 ... Second Party

For the First Parties : Shri H.R. Raval

For the Second Party : None

AWARD

The Ministry of Labour and Employment, Government of India have in exercise of powers conferred by the Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of Industrial Disputes Act, 1947 referred the below mentioned dispute vide reference adjudication Order No. L-42012/67/2018-IR (DU) dated 24.05.2018 for adjudication to this Tribunal.

SCHEDULE

"Whether the termination of the services of workman, namely Shri Jayantibhai Hamirbhai w.e.f. 01.01.2014 (working as casual labour w.e.f. 19.01.2009) by the management of Indian Council of Agriculture Research (Directorate of Groundnut Research), Junagadh, Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?"

1. The reference was received in this Tribunal on 05.06.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh. 2 issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. Shri H.R. Raval filed his vakalatnama on behalf of first parties. A period of more than 4 years had been elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry.

3. In considered opinion of this Tribunal, it is established that either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence.

4. It is therefore just & proper to pass an award considering "no dispute" between the parties.

5. The award is passed as above. The award be sent for publication U/s 17(1) of Industrial Disputes Act.

RADHA MOHAN CHATURVEDI, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1100.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष, रबर बोर्ड, (भारत सरकार के वाणिज्य और उद्योग मंत्रालय), कोट्टायम; उप सचिव (पी एंड ए), रबर बोर्ड, (वाणिज्य और उद्योग मंत्रालय भारत सरकार), कोट्टायम; शाखा प्रबंधक, रबर बोर्ड, (वाणिज्य एवं उद्योग मंत्रालय भारत सरकार), कोच्चि, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती आयशा वी. पी., कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- एर्नाकुलम पंचाट (संदर्भ संख्या 08/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2022 को प्राप्त हुआ था।

[सं. एल-42025/07/2022-31- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1100.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2018) of the Central Government Industrial Tribunal-cum -Labour Court - Ernakulum as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chairman, Rubber Board ,(Ministry of Commerce & Industry Govt of India),Kottayam; The Deputy Secretary (P&A),Rubber Board,(Ministry of Commerce & Industry Govt of India),Kottayam; The Branch Manager, Rubber Board,(Ministry of Commerce & Industry Govt of India), Kochi,and Smt. Aysha V. P., Worker, which was received along with soft copy of the Award by the Central Government on 19.09.2022.

[No. L- 42025/07/2022-31- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, ERNAKULAM

Present: Shri. V. Vijaya Kumar, B. Sc, LLM, Presiding Officer.

(Thursday the 5th day of May 2022, 15 Vaisakha 1944)

ID No.08/2018

Workman/Union : Smt. Aysha V. P.
Vettakkatttu House
Rameswaram Vilalge
Kadebhagam
Palluruthy
By Adv.A. X. Varghese

Managements : 1. The Chairman
Rubber Board
(Ministry of Commerce & Industry Govt of India)
P.B.No.1122
Sub Jail Road
Kottayam – 686002
By M/s. Joseph & Kuriyan

2. The Deputy Secretary (P&A)
Rubber Board
(Ministry of Commerce & Industry Govt of India)
P.B.No.1122
Sub Jail Road
Kottayam – 686002
By M/s. Joseph & Kuriyan

3. The Branch Manager
Rubber Board
(Ministry of Commerce & Industry
Govt of India)
Willingdon Island
Kochi – 682001

This case coming up for final hearing on 10.03.2022 and this Industrial Tribunal-cum-Labour Court on 05.05.2022 passed the following:

AWARD

1. This is a claim filed U/s 2A(2) of Industrial Disputes Act, 1947 .

2. The worker worked under the Management as sweeper in the office of the 3rd Management for more than 36 years. She started working with the Management in the year 1977. Initially she worked for 3 days in a week. From 1980 onwards the worker started working in the office of the 3rd Management as a permanent employee with a meager salary of Rs.1500/- per month. During Onam season, the worker was provided bonus to the tune of Rs.1000-1500/-. On 17.11.1997 the worker submitted a representation before the 3rd Management to regularize her service. No action was taken by the Management. On 29.09.1998 the worker was directed to appear for an interview on 23.10.1998. Though the worker attended the interview she was not regularized. Again the worker was directed to appear for a preliminary interview on 26.06.2006. However she was not selected for the post of sweeper. Though the worker was not appointed in pursuance of the above call letters, she continued to be a temporary sweeper in the office of the 3rd Management. On 06.08.2010 the worker submitted a representation with a request to take necessary action to regularize her service. Since there was no action on the representation, the worker approached the Hon'ble High Court in W.P.(C) no.16427/2011. The Hon'ble High Court vide judgment dt.07.06.2012 disposed off the writ petition directing the worker to avail the remedy under Industrial Disputes Act. Even thereafter the Management failed to consider her request for regularization considering her long uninterrupted continuous service. While so, the services of the worker was discontinued w.e.f. 01.04.2015 when the office of the 3rd Management was closed and shifted to Kottayam. The worker moved the Regional Labour Commissioner but the same was not considered since the representation was not made through the Union. The worker therefore approached the Hon'ble High Court in W.P.(C) no.852/2017. The Hon'ble High Court vide judgment dt.10.01.2017 disposed off the writ petition directing the Labour Commissioner to consider the petition filed by the worker logically after hearing the parties. The conciliation proceedings failed in view of the adamant stand taken by the Managements. The worker worked under the Managements for 36 years without any break in service against a duly sanctioned post. The act of the Managements in terminating the service of the worker is in violation of Sec 25T of the Industrial Disputes Act.

3. The 1st and 2nd Management filed written statement denying the allegations in the claim petition. There is no office of the 3rd Management at present. The Rubber Board is a statutory body constituted under and governed by the Rubber Act, 1947. The appointment of employees can be done only against the sanctioned post and based on the approved recruitment rules. The worker was a part time sweeper in the Rubber Board sub office at Willingdon Island, Cochin and was not engaged against any sanctioned post. It is true that the worker was engaged in the sub office of the 1st Management at Willingdon Island, Cochin for doing the part time job of sweeper. The worker was also doing part time job in other office and continued to do the same. No appointment order was issued to the worker. The worker was required to work for a maximum of one hour. She was not appointed against any sanctioned post as there is no post of sweeper in the Rubber Board. The sweeping charges of the worker was accounted under the head `Sundries`. She was engaged on temporary basis sand she was not retained in the office after her work is over. During 1997, there were two vacancies of sweepers in Rubber Board. The 1st Management called for a list of suitable candidates from the Directorate of Employment. As per Recruitment Rule, the sweeper post was filled up from the candidates having literacy and the age limit was 25 years. The Directorate of Employment furnished a list of 140 candidates along with those candidates the part time sweepers and workers of Rubber Board also attended the interview. The part-time sweepers can apply for the said post if they fulfill the criteria specified for that post. They have to compete with regular candidates. Interview was conducted on 22.10.1998 and 23.10.1998 for 110 eligible candidates. Out of the 110 candidates, shortlisted 40 candidates were part time sweepers including the worker. Though the worker attended the interview, she was not selected. The interview that took place on 26.06.2006 had noting do with the now abolished post of sweeper. The same related to the post of Peon/Watchers for which open interview was conducted and the worker had appeared. She failed to qualify as her education qualification was only 4th Standard passed where as the education qualification required was 7th Standard pass. It is true that the office of the 3rd Management was closed on 01.04.2015. The worker filed W.P.(C) no.16427/2011 before

the Hon'ble High Court of Kerala with a claim to regularize her service as sweeper with retrospective effect from 1980. The Hon'ble High Court dismissed the petition with a direction to approach the right forum. The worker is more than 60 years of age and there is no post of permanent sweeper in the Rubber Board. The decision of the Hon'ble Supreme Court in the case of **State of Karnataka Vs Uma Devi**, 2006 4 SCC is not applicable to the present case. There is no violation of Sec 25T of the ID Act.

4. After completion of the pleadings, the matter was posted for the evidence of the worker. The worker did to adduce any evidence. The Management also did not adduce any evidence on their side. Hence the matter was taken up for hearing.

5. The issue involved in this industrial dispute is

"Whether the worker is entitled for regularization in the service of the Management w.e.f. 1980 onwards ?"

6. According to the worker, the worker was working with the 3rd Management office from 1977. From 1980 onwards she was working on every day on a monthly salary of Rs.1500/- per month and she was also being paid bonus during Onam season. Though she attended the interview for sweeper post on 23.10.1998, she was not selected. Again she was called for an interview on 26.06.2006 and she was not considered for regularization. She approached the Hon'ble High Court of Kerala in W.P.(C) no.16427/2011 seeking regularization of her service from 1980. The Hon'ble High Court disposed off the writ petition directing the worker to approach the appropriate authority under the Industrial Disputes Act.

7. The learned Counsel for the Management fairly conceded that worker was working with the 3rd Management as a part time Sweeper till 01.04.2015 and she was not engaged after 01.04.2015 since the office of the 3rd Management situated at Willingdon Island was closed and shifted to Kottayam.

8. The question to be considered in this dispute is whether the workman had continuous service of 240 days with the Managements one year prior to the date of termination on 01.04.2015. Though the worker was given more than adequate opportunity to produce evidence regarding her claim of continuous and uninterrupted engagement, she failed to produce any evidence. She did not adduce any oral evidence also. However the claim of the worker is that she was being paid monthly salary and according to the Management the payments are made from "Sundries" expenses account. The appropriate thing that the worker ought to have done is to call for the payment of wages details to her from the Management. In the absence of any evidence to that effect, it is difficult to consider the claim of the worker that she had continuous and uninterrupted service with the Management for more than 30 years.

9. Hence the claim of the worker for regularization in the service of the Management from 1980 is without any basis and evidence.

10. Hence an award is passed holding that the worker is not entitled for regularization of service with the Management retrospectively from 1980.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 5th day of May, 2022.

V. VIJAYA KUMAR, Presiding Officer

नई दिल्ली, 21 अक्तूबर, 2022

का.आ. 1101.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रैंडस्टैड इंडिया प्राइवेट लिमिटेड, पटना के प्रबंधतंत्र के संबद्ध नियोजकों और श्री राकेश कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार में औद्योगिक अधिकरण एवं श्रम न्यायालय–1, धनबाद पंचाट (संदर्भ संख्या 12 of 2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 22/09/2022 को प्राप्त हुआ था।

[सं. एल- 42012/130/2018-आईआर -(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 21st October, 2022

S.O. 1101.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12 of 2018) of the Central Government Industrial Tribunal cum Labour–1, Dhanbad, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Randstand India Pvt Ltd, Patna and Shri Rakesh Kumar, Worker, which was received along with soft copy of the award by the Central Government on 22/09/2022.

[No. L- 42012/130/2018- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 12/2018

Employer in relation to the management of Randstand India Pvt. Ltd, Patna

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For Bharti Infratel : Sri R.K. Ambasta, Advocate.

For Rand Stand. : Sri Sri Vikrant Kr. Roy, Advocate

For Workman : Sri M. Prasad, Advocate.

State : Jharkhand. Industry:- Telecom

Dated 27/07 /2022

AWARD

By Order No.L-42012/130/2018- (IR(DU)) dated 28.08.2018 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/s.Randstand India Pvt. Ltd, Patna in issuing transfer order of Sh. Rakesh Kumar, Technician, from Sasaram to Latehar and subsequently termination of his services w.e.f. 20.11.2017, keeping in view the medical needs and treatment of his pregnant wife during that period, is just and legal? If not, to what relief the workman concerned is entitled to?"

2. This reference is received on 10/09/2018 by this Tribunal in which the Vice President, Randstand India Pvt. Ltd, Patna had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, all three parties were noticed and all parties appeared for certain dates.

The concerned workman namely Rakesh Kumar has filed statement of claim on 04/01/2019. After that the management of Randstand India Pvt. Ltd. and management of M/s. Bharti Infratel Ltd. have filed their written statement. Further during the pendency of the case, the concerned workman Sri Rakesh Kumar filed a withdrawal petition along with appointment letter on 15/06/2022 stating therein that management has provided employment to him, so there is no need to proceed with adjudication in this case. It has been further stated that he may be permitted to withdraw the present industrial dispute. The concerned workman has filed a copy of appointment letter.

Since in this case the workman has been provided an employment by management and the workman has made prayer to grant permission to withdraw the case, so it appears that the workman has lost its interest in the case. Hence "No Claim" Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 27 अक्तूबर, 2022

का.आ. 1102.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एच डी एफ सी बैंक लिं. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एर्नाकुलम के पंचाट (संदर्भ संख्या 29/2016) को प्रकाशित करती है।

[सं. एल-12025/01/2022-आई आर (बी-1)/08]

ए. के. यादव, अवर सचिव

New Delhi, the 27th October, 2022

S.O. 1102.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ernakulam* as shown in the Annexure, in the industrial dispute between the management of HDFC Bank Ltd. and their workmen.

[No. L-12025/01/2022– IR(B-1) /08]

A. K YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, ERNAKULAM

Present: Shri. V .Vijaya Kumar, B. Sc, LLM, Presiding Officer

(Wednesday the 20th day of April 2022, 30 Caitra 1944)

ID No. 29/2016

Workman : Sri. Mahesh Ramakrishnan
T – 38/1212
Harirama
Edakkad
Kozhikode – 673005

By Adv. Ashok B. Shenoy

Management : The Managing Director
M/s.HDFC Bank Ltd
HDFC Bank House
Senapati Bapal Marg
Lower Parel (West)
Mumbai - 400013
By Adv. Saji Varghese

This case coming up for final hearing on 17.11.2021 and this Industrial Tribunal-cum-Labour Court on 20.04.2022 passed the following:

AWARD

1. This is a claim filed U/s 2A(2) of the Industrial Disputes Act.

2. The workman was appointed in the service of the Management Bank on 23.02.2006 as Executive - Retail Credit. He was assigned with duties of verifying the particulars in the loan application of loanees with their Know Your Customer documents. Later he was designated as Assistant Manager in the year 2007and as Deputy Manager in the year 2008 and as Manager in the year 2010. However the workman was doing the same duties assigned to him. In the year 2012, the duties of the workman was changed and he was assigned with the responsibility of collecting loan applications, verifying the same and forwarding it to the concerned department. On 30.01.2015 the workman was served with an E-mail from the Management Bank intimating that his services were terminated w.e.f. 29.01.2015. On 02.02.2015, he was served with another E-mail with the termination letter dt.28.01.2015 signed by Senior Vice President(HR) of the Management. Being aggrieved by the termination, the workman approached the Assistant Labour Commissioner(Central), Ernakulam on

04.03.2015. The conciliation proceedings failed on 24.01.2015 as no settlement could be reached. The termination of the service of the workman is illegal and abinitio void as it is effected in violation of Sec 25F, Sec 25G and Sec 25H of the Industrial Disputes Act.

3. The Management filed written statement denying the above allegations. The workman was working as Sales Manager and he was discharging managerial, administrative and supervisory duties. There were 6 Sales Executives reporting to him at Kannur Office while he was working as Sales Manager and he had supervisory and controlling powers over them. He was drawing a salary of Rs.45,271/- per month. He was also responsible for appointing sales executives under him. He used to conduct interview and selection of sales executives. The Sales Executives are marking their daily attendance before him and he was bound to assign their targets, giving necessary instructions and supervising their activities for generating business. He was also responsible for monitoring their productivity, imparting training, assessment of their performances and recommending for promotion etc,. He was also responsible for sales planning, manpower planning, cost of acquisition, achieving of business targets etc. Thus he was discharging functions of managerial, administrative and supervisory functions and he was never a workman under the Industrial Disputes Act. While working as Sales Manager, the services of the workman was not satisfactory. He was given several opportunities to improve his performance. Since there was no improvement, the Management terminated the service of the workman by paying 3 months salary in lieu of notice and other benefits entitled as per his terms of appointment. The applicant is employed after his services were terminated by the Management.

4. The workman filed a replication denying the allegations in the written statement filed by the Management and in terms of the claim statement.

5. On completion of pleadings, the matter was posted for evidence of the workman. He failed to produce any documentary or oral evidence and ultimately the learned Counsel for the workman submitted that he has no instructions from the workman.

6. Considering the nature of employment, the duties assigned to the workman and the wages paid, it is clear that the workman will not come within the definition of workman U/s 2(s) of the Industrial Disputes Act, 1947. Further, there is no evidence on the side of the workman to substantiate his contentions. Hence his claim for reinstatement into the service of the Management with full back wages, continuity of service and other attended benefits cannot be sustained.

7. Hence an award is passed holding that the workman is not entitled for any of the claims including that of reinstatement in the service of the Management.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 20th day of April, 2022.

V. VIJAYA KUMAR, Presiding Officer

नई दिल्ली, 27 अक्तूबर, 2022

का.आ. 1103.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 150/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/10/2022 को प्राप्त हुआ था।

[सं. एल-22012/205/1995-आई. आर. (सी-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 27th October, 2022

S.O. 1103.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 150/1996) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 26/10/2022.

[No. L-22012/205/95 – IR (C-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/150/1996

Present: P.K. Srivastava, H.J.S..(Retd)

The General Secretary,
M.P. Koyla Mazdor Sabha (HMS),
PO:South Jharkhand Colliery
District Surguja (M.P.)-497447 ... Workman

Versus

The Sub Area Manager,
SECL Chirmiri Area,
PO:WestChirmiri Colliery
District Surguja (M.P.)-497773 ... Management

AWARD
(Passed on 12-10-2022)

As per letter dated 18/7/1996 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/205/95-IR(C-II).The dispute under reference relates to:

"***Whether the action of the management of Chirmiri Colliery of Chirmiri Area of SECL in employing 10 workers on the tub repairing work between the period 1978 to 1992 as contract labour was bonafid or it was camouflage?To what relief these workers are entitled to? .***"

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of defence/claim.

2. According to the workman Union Nazirullah Khanand nine others mentioned in the reference were working as Tub Repairing workers in the chirmiri colliery of chirmiri area of the management of SECL Ltd. From 1978 to 1992. The coal in the mines is carried from underground to the surface and to the coal handling plant/point of dispatch through tubs and is incidentally the coal industry. Tub repairing is integral work to keep the tubs in proper working order. The Management engaged Nazirullah Khan and nine workers as tub repairing mazdoor within the mines premises of the chirmiri colliery. They were required to go inside the mines also for the repairing of the tubs but they were deprived the wages of category-II as prescribed in various National coal Wage Agreements in force during the period. The Management showed Nazirullah Khan as a ghost contractor though he was also a co-worker with the nine other workers in tub repairing works as tub repairing mazdoor. The payment of these mazdoor as well as Nazirullah Khan was made to them through Nazirullah Khan depicting him to be the contractor. According to the workman Union these workmen worked from 1978 to 1972 which goes to show that the work is of perennial and permanent nature and is of regular nature. This action of Management in engagingthese workmen as contractorlabour on such job of permanent and perennial nature is in violation of NCWA-3-4 Clause 11.5.1. Also it has been alleged that the management of ChirrmiriColliery was not legally competent to engage contractor workers as it was not registered under Section 7 of the Contract Labour(Regulation and Abolition)Act,1970 read with Rule 18 of Contract Labour rules 1971 also that the loading and transpiration of coal from mines to surface was done by tubs hence tub repairing being integral part of this activity is also a work of prohibited category according to the notification of appropriate government of 1-2-1975 and 1988 in this respect which prohibits engagement of contract labour in coal loading and uploading. These workmen have worked for the profit of the management. The same work was performed by the regular workforce of the Management in different area. According to the workman Union, the management provides vocational training as mentioned in Vocational Training Rules 1966 and is under obligation to maintain registers as mentioned in Section 48 of the mines Act, 1952, and Rules 48, 77, 78 of Mines Rules, these registers must be in the custody of the Management. Further it has been alleged that these workmen worked under the directions supervision and control of the official of the chirmiri colliery. The instruments were provided by Management. They worked on the site of the management. Their attendance was marked and payment was also made by the Management of SECL. According to the workman Union a similar dispute arose with regard to tub repairing mazdoor in Hasdeo area under the management and control of SECL with regards to 200 tub repairingmazdoor which were referred to arbitration. The Arbitrator delivered its award holding these tub repairing mazdoor entitled to departmentalization of all consequential benefits , hence the claimant workman in the case in hand are also entitled to parity. The workman Union has further alleged that all these workman have been in continuous engagement of the Management for 240/190 days in every year. Their services are terminated without any compensation or notices which is in violation of Section 25G and 25F of the Industrial Disputes

Act. Accordingly, the case of the workman Union is mainly that the workman were engaged in work of prohibited nature and category which was of permanent and perennial nature under a sham contractor who was a co-workman just as a camaflouge to deny these workman their legally admissible rights. Accordingly it has been prayed that the workmen be held as regular employees of the management of SECL and also be held entitled to re-instatement with all consequential benefits right from their date of their engagement.

3. The case of the management of SECL as taken in their written statement of defence is mainly that firstly the General Secretary of the Union has no locus stadia to raise the dispute as the workers are contract workers who cannot be Member of the Union as per their consideration. Secondly the dispute has been raised after lapse of considerable time, hence is barred by delays and latches. Thirdly, the order o reference is vague and it cannot be adjudicated upon.

4. Apart from these preliminary objection, the Management has pleaded that it is registered Principal Employer under the Contract Labour(Regulation and Abolition)Act,1970, hence is authorized to engage contractor labour for certain categories of work which are not prohibited in the Act. According to the management, the applicant workmen were never engaged by them or by the contractor at any point of time for the work of tub-repairing. Moreover the work of tub repairing is not that of permanent and perennial nature. Since these applicant workmen were never engaged by management their existed no relation of employer and workman between the management and the applicant workman. The name of the applicant workman has not been disclosed in the reference, hence it is difficult to establish that these are the workmen who really worked as tub repairing workers. Moreover the practice of transportation and loading and unloading of coal in tubs has been done away now and the work is not available at present. Accordingly the management has prayed that the reference be answered against the workman Union. The workman Union has filed affidavits of workmen Mushkil Ali, Nazirullah Khan, MunnaShankar Budhram, Bibunsai and witness Ramkaran Singh, retired employee of the management witness Noorjahan, Jagbhandu out of which Nazirullah Khan could not be cross-examined due to his death. The workman Budhram, Bibunsai, witness Ramkaran Singh and witness Noorjahan andJagbhandu have been cross-examined by the Management.

5. The management has filed affidavit of its witness Harendra Singh Rajput, Deputy Manager Personnel, D.K.Goswami, Deputy management Personnel, Devideen Senior Clerk Brejeshwar Pandey , Driver who have been cross-examined by workman union.

6. The workman union has filed different contracts awarded to the contractor Nazirullah Khan and payment bill for rub repairs as well different letters regarding payment of bills of tub repairing as well as work of tub repairing from the period 1978 to 1992 they are exhibits W1 to W-78. Witness Noorjahan has approved attendance register Exhibit W-89. The workman Union has further filed and proved Exhibit W-90. General notice to the tub loaders informing them that whoever wants to d work as tub-loader will be given Rs.88.93 +SBRA basic thus willing may apply. Exhibit W-91 is another general notice of the management dated 25-1-2000. Exhibit W-92, W-93 are details of discussion regarding tub-loaders between representative of the Union and the Management as well as the office order in this respect regarding the chirmiri colliery regarding approval of competent authority of the management converting the loaders who opted to work in piece rated category.

7. Management has filed and approved Exhibit M1, M2,M3,M4,M5 communications at different levels for certificate for registration of management of SECL chirmiri area as per provision under Section 7 of the Contract Labour(Regulation and Abolition)Act,1970 for the year 1978 to 1992. The Management has further filed and proved Exhibit M-6 is the letter dated 7-1-1981 to 25 contractors including Nazirullahh Khan to meet the Labour Enforcement Officer who has recently joined. Exhibit M-7 is the annual return of the Principal Employer filed before Assistant Labour Commissioner Shahdol and as required in Contract Labour(Regulation and Abolition)Act,1970 showing that 19contractors were engaged during that period but the name of Nazirullah Khan does not find mention in this record. Exhibit M-8 is not legible hence it cannot be inferred on which subject it has been issued. Exhibit M-9 is a notice of meeting of nine contractor including Nazirullah Khan issued in the year 1984. Exhibit M-10 to M-19 are different communication between management and Assistant Labour Commissioner, between the Management and contractors on different issues. Name of Nazirullah Khan find mention in some of these communications.

8. I have heard arguments of learned counsel Shri R.C.Shrivastava appearing on behalf of workman Union and Mr. A.K.Shashi for management. The workman Union has filed a memorandum of arguments which is on record. I have gone through the memorandum as well as the record.

9. Perusal of the record in the light of rival arguments makes out the following issues for determination.

"1: Whether the workmen were engaged in work of prohibited category.?

2: Whether the alleged contracts where sham and bogus, rather a camouflage to deprive the workmen of their benefits.?

3: Whether the disengagement of workmen is justified in law and fact.?

4: Whether the workmen are entitled to any benefits."

11. Issue No 1-

According to the respective claims of the parties in this case, it is alleged from the side of the Workmen that the said contract isof prohibited category on two grounds **Firstly,** because it was work of perennial/regular natureand**Secondly,** it was prohibited by notification of Government of India dated 21-1-88. **Section 1 Sub-Section (5) of the'CLRAAct'**is relevant here which is being reproduced as follows:-

"(a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed. (b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.

Explanation.-- For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or

***(ii)* (ii) if it is of a seasonal character and is performed for more than six months in a year."**

12. Learned Counsel for the Workmen/Union has further referred to Clause **11.5.1 of the agreement of NCWA 4/5** which reads as follows:-

"Industries shall not apply labors through contractor or engage contractor's labor on jobs of permanent and perennial nature."

13. Learned Counsel further refers to Notification of Government of India dated 21-6-1988 on record which prohibits contract labor in following jobs :-

SCHEDULE

1. Raising or raising-cum-selling of coal;

2. Coal loading and unloading:

3. Over burden removal and earth cutting:

4. Soft coke manufacturing

5. Driving of stone drifts and miscellaneous stone cutting underground:

Provided that his notification shall not apply to the following categories:-

(a) Quarries in the North-East Coal Field which can only be worked for a few months every year due to heavy rainfall in the area:

(b) Quarries located by the side of the riven in Pency valley and similar other patch deposits which can only be worked when the level of river has gone down and during non-rainy seasons;

(c) Loading coal when there is mechanical failure, failure of power or irregular supply of wagon by the railway; and

(d) Cutting stone drifts/faults which cannot be detected in advance and are of short duration, say up to six months.

14. It is in the argument of learned Counsel of Workmen that since there was in prohibition of NCWA and CLRA Act, as mentioned above, hence the work for which the so called contractor is alleged to have been engaged of prohibited nature which could not be done through contractor.On the other hand, learned counsel for Management has submitted that **firstly**, the work is not of perennial nature as mentioned in Section -1 Sub-Section 5 of the CLRA Act and **secondly,**the evidence on record as well documents regarding the issuing of tender and work agreement as well as work order show that the said got executed through the contractor was of prohibitory category as mentioned in the notification dated 21-6-1988. The workman Budhram has stated on this point that he along with NazirullahKhan ,Bibunsai, Ramsai, Mushkilali, Shankar, MunnaEsmile and Kalyan Singh used to do the job of tub repairing in chirmiri colliery within the period 1978 to 1992 as directed by the officials of Management under their directions, control and supervision. Their attendance was marked in the attendance register by the officials of management. Instruments of repair were provided by the management

from the store. They used to work inside the mines also for tub repairing all of them have worked continuously for more than 240 days in every year. The workman doing the same nature of job were regularized by the same Management underBhave Award dated 30-8-1990. In his cross-examination, this witness states that he does not remember the name of the Officers who appointed him. He specifically denies that he was engaged by Nazirullah Khan the alleged contractor. He admits that the accounts and wages of the workers were maintained by NazirullahKhan, the alleged contractor. He denied that Nazirullah Khan was a contractor and states that he was a co-worker with them. This Nazirullah Khan used to receive the wages collectively from the office and distributed it among the workman.

10. The workman Bibunsai also states the same facts. In cross-examination he denies that Nazirullah used to maintain the record of the attendance and wages of the workers. He also pleads ignorance regarding the relation between Nazirullah Khan and the Management. The workmen witness Noorjahan who happens to be the daughter of Nazirullah Khan by the workman Union as Nazirullah Khan who had filed his affidavit died during the proceedings, hence he could not be produced for cross-examination. She states that her father Nazirullah Khan used to work as a Tub –repairing mazdoor with his co-workman. The Management used to given the wages of all the workman to Nazirullahh Khan. He used to mark attendance of the workman on behalf of Management. Even she also used to make entries regarding presence of the workman in this attendance register. She denies in her cross-examination thatNazirullahh Khan was a contractor. She admits that the co-workmen wee engaged by her father but pleads ignorance as to who had employed her father. The workmen witness Jagbhandu is an employee of the management. He is a telephone line man. He has corroborated the statement of other workman witness as mentioned above. In cross-examination he states that he is a Secretary of the Union. He had worked as Tub-loader in the year 1988 till 2000 and has been regularized thereafter. He has further stated that he has seen this workman work as a tub repairing worker. The workman witness RamkaranSingh is a retired employee of the Management. He has also corroborated the statement of other workman witness and has proved the contractor as well as the payment vouchers/papers stating that he is acquainted with the signatures of the engineers who had signed these documents. Exhibit W-1 to Exhibit W-87. He further states that he was member of the workman union. He has himself seen these workmen work as tub-repairing workers. The Transportation and loading of coal through tubs was done away after 1992. It is being done now by machines. He further states that instruments were provided by management officials from their store.

11. The Management witness have generally corroborated the case of the management that the job of tub repairing was not of permanent nature nor was it of prohibited category. It was taken though the contractor Nazirrullah Khan who was awarded the contract. He used to get it done through his workers. He was paid by the Management for which it had agreed the rates on piece level.

12. Notification of Central Government,1988 issued under Section 10 of the Contract Labour(Regulation and Abolition)Act,1970 as referred to above prohibits engagement of contract labour in coal loading and up loading, it is common knowledge that before introduction of machines for the purpose of loading the coal inside the mines and taking it to on surface, tubs were used. Know this job is done by machines and use of tubs for this has been done away. Maintenance and repairs of the tubs used for loading and uploading of coal inside the mines and bringing it on surface is no doubt an integral part of the activity of loading and uploading of coal. Hence, being an integral part of loading and up loading of coal, engagement of contract labour for repairing and maintenance of tubs used for loading and uploading will also be deemed as prohibited under the notification of 1988 referred to above and is held accordingly.

13. As regards the second leg of arguments from the side of the workman Union that the work could not be taken by contract labour because it was work of permanent and perennial nature, it is undisputed that the work continued from 1978 to 1992. Loading of coal inside the mines and bringing it on surface for being transported to various locations from there is an integral part of mining activity regarding coal production and it no doubt exists till mining is done from the mines. Since tubs were used at that time for this purpose, maintenance and repairs of tubs will also be a continuous ie; permanent and perennial activity relating to mining exercise. Accordingly, loading and uploading of coal extracted inside the mines is held an activity of permanent and perennial nature , Clause 11.5.1 of NCWA referred to above specially prohibits engagement of contractors or contract labour in job of permanent and perennial nature. Reference of Section 1(5) of the CLRA Act,1970 also requires to be made in this respect which is as follows:-

Section 1 Sub-Section (5) of the'C.L.(R&A) Act 1970'is relevant here which is being reproduced as follows:-

> **"(a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed. (b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.**

Explanation.-- For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or

(ii) if it is of a seasonal character and is performed for more than six months in a year."

14. Learned Counsel for Union as further referred to Bhave Award which is an arbitration award between the management of SECL i.e. Management in the present case and tub repair workers of Hasdeo area colliery regarding the same nature of dispute. Thus it is an Award with respect to same dispute between similarly parties or similarly place parties and hence is relevant to this case and in this Award of 1990, copy of which is on record. This activity has been held as activity of permanent and perennial nature. Hence in the light of these facts and evidence, the activity of tub repairing is liable to be held as a activity of permanent and perennial nature and is held accordingly.

15. **Hence, the claim of the workman Union that the work done was prohibited vide notification of 21-7-1988 issued by Central Government under Section 10(1) of the CLRA Act,1970 and was thus prohibited to be taken by coantractlabour as well the work was of permanent and perennial nature for which employment of contract labour was prohibited under Clause of 11.5.1. of NCWA-4/5 is held proved and<u>Issue No.1 is answered accordingly.</u>**

16. **<u>ISSUE No.2:-</u>**

Before entering into examination of evidence on this issue produced from both the sides, it is proper to refer the case laws referred to by both the side learned counsel in this respect is as under-

20. The learned Counsel for workmen/Union has referred to case law **<u>Hussainbhai, Calicut Vs. The Alath Factory Thezhilali Union, Kozhikode and others, (1978)4 Supreme Court Cases 257</u>**. The relevant portion is reproduced below: -

> *"Labor and Industrial Law – Industrial Disputes Act 1947 – Section 2(s) – Employer and employee relationship – Workmen employed by independent contractor to work in employer's factory – Whether "workmen" – Tests for determining The petitioner is a factory owner manufacturing ropes. A number of workmen were engaged to make ropes but they were hired by contractors who had executed agreements with the petitioner to get such work done. When 29 of those workmen were denied employment, an industrial dispute was referred by the State Government and the award was attacked on the ground that the workmen were not workmen of the petitioner but only of the contractor. The High Court rejected the contention. Dismissing the appeal, the Supreme Court.Held: The facts found are that the work done by the workmen was an integral part of the industry concerned, that the raw material was supplied by the management, that the factory premises belonged to the management, that the equipment used also belonged to the management, and that the finished product was taken by the management for its own trade. The workmen were broadly under the control of the management and defective articles were directed to be rectified by the management. This concatenation of circumstances is conclusive that the workmen were the workmen of the petitioner. (Para-2).The true test is where a worker or group of workers labor to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill and continued employment. If he, for any reason, chokes off, the worker is virtually laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contrctu is of no consequence, when, on lifting the veil or looking at the conspectus of factors governing employment, the naked truth is discerned, and especially since it is one of the myriad devices resorted to by managements to avoid the responsibility when labor legislation casts welfare obligations on the real employer based on Arts. 38, 32, 42, 43 and 43A. If livelihood of the workmen substantially depends on labor rendered to produce goods and services for the benefit and satisfaction of enterprise, the absence of direct relationship or the presence of dubious intermediaries cannot snap the real life-bond. If, however, there is total dissociation, in fact, between the disowning management and aggrieved workmen, the employer is in substance and in real life-term, by another.*

Learned Counsel for workmen has further referred to following case laws-

(i) ***<u>Gujarat Electricity Board, Thermal Power Station, Gujrat Vs. Hind MazdoorSabha, 1995-II-LLJ-790</u>***

Industrial Disputes Act, 1947- Sec. 2(k), 2(s), 10(2) – Contract Labor (Regulation & Abolition) Act 1970- Sec.10 – Abolition of contract labor – industrial dispute – jurisdiction of Labor

Court under Industrial Dispute Act – Jurisdiction of Appropriate Government has exclusive jurisdiction to decide in regard to abolition of contract labor – section 10 of the Contract Labor Act would come into play only in cases of genuine contract and not when contract is sham or camouflage – contract Labor abolition act does not provide for status of the contract labor after abolition – Industrial Tribunal whether have jurisdiction to direct principal employer to absorb erstwhile workmen of the contractor and also determine the terms and conditions – Industrial adjudicator will determine the status of a workmen or abolition of contract labor, if industrial dispute was pending before him on date of abolition of contract labor system by appropriate government – workmen of erstwhile contractor can raise dispute on the basis that they are workmen of principal employer and dispute in such cases would be not for abolition of contract labor, but on the footing that workmen were always employees of principal employer - ''

(ii) ***Secretary, Haryana Electricity Board Vs. Suresh and others, AIR-1999-SC-1160***.

"(E) Contract Labor (Regulation and Abolition) Act (37 of 1970), S.10 – Contract Labor – Absorption in service- Electricity Board – Work of keeping plants and station clean and hygienic awarded to contractor- work not of seasonal nature – contract itself stipulating number of employees to be engaged by Contractor – Overall control of working of contract labor including administrative control remaining with the Board – Board neither registered as principal employer nor contractor was licensed contractor – Contract system was thus a mere camouflage which could be easily pierced and employer employee relationship between Board and employee easily visualized – Employees who have worked for more than 240 days cannot therefore be denied absorption."

Learned counsel has referred following para(Paras 15, 17, 19),being reproduced as follows-

'15- *It would in this context,however, be convenient to note the observations of the HighCourtasbelow:-*

"The learned counsel for the petitioner has tried to argue that the findings of fact arrived at by the Labor Court was not based upon proper appreciation of evidence. This plea cannot be accepted in as much as the Labor Court has referred to the whole of the evidence lead in the case before coming to such a conclusion. Otherwise, also in view of the law laid down by the Supreme Court in R.K. Panda's case (supra) the findings of fact arrived at by the Labor Court cannot be set aside in writ jurisdiction particularly when it is neither perverse nor contrary to the record but based only on appreciation of evidence. Keeping in view the nature of the work being carried on by the petitioner, the nature of duties which were performed by the respondents-workmen, the continuity of the work for which the labor was employed and the fact that the wages were paid by the petitioner-employer who supervised and controlled not only the attendance but also discipline of the workmen in the discharge of their duties and keeping in view the conditions of contract of the employer with Kashmira Singh, Contractor, there is no other conclusion which can be arrived at except the one that there existing a relationship of employer and workmen between the contesting parties and the Labor Court had rightly passed the award which is impugned in this petition."

17-As noticed above Draconian concept of law is no longer available for the purpose of interpreting a social and beneficial piece of legislation,specially on the wake of the new millennium. The democratic polity ought to survive with full vigour: socialist status as enshrined in the Constitution ought to be given its full play and it is in this perspective the question arises – is it permissible in the new millennium to decry the cry of the labor force desirous of absorption after working for more than 240 days in an establishment and having their workings supervised and administered by an agency within the meaning of Article 12 of the Constitution – the answer cannot possibly be in the affirmative – the law courts exist for the society and in the event law courts feel the requirement in accordance with principles of justice, equity and good conscience, the law courts ought rise up to the occasion to meet and redress the expectation of the people. The expression 'regulation' cannot possibly be read as contra public interest but in the interest of public.

19-It has to be kept in view that this is not a case in which it is found that there was any genuine contract labor system prevailing with the Board. If it was a genuine contract system, then obviously, it had to be abolished as per Section 10 of the Contract Labor Regulation and Abolition Act after following the procedure laid down therein. However, on the facts of the present case, it was found by the Labor Court and as confirmed by the High Court that the so called contractor Kashmir Singh was a mere name lender and had procured labor for the Board from the open market. He was almost a broker or an agent of the Board for that purpose. The Labor Court also noted that the Management witness Shri A.K. Chaudhary also could not tell whether Shri Kahsmir Singh was a licensed contractor or not. That workmen had made a statement that Shri Kashmir Singh was not a

licensed contractor. Under these circumstances, it has to be held that factually there was no genuine contract system prevailing at the relevant time wherein the Board could have acted as only the principal employer and Kashmir Singh as a licensed contractor employing labor on his own account. It is also pertinent to note that nothing was brought on record to indicate that even the Board at the relevant time, was registered as principal employer under the Contract Labor Regulation and Abolition Act. Once the Board was not a principal employer and the so called contractor Kashmir Singh was not a licensed contractor under the Act, the inevitable conclusion that had to be reached was to the effect that the so called contract system was a mere camouflage, smoke and a screen and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the Board, on the one hand, and the employees, on the other, could be clearly visualized.'

(iii) ***Bharat Bank Limited Vs. Employees of Bharat Bank Limited, AIR 1950 SC 188***.

The Hon'ble Supreme Court has held that the Tribunal has got wide power in given circumstances, it can create contract between parties in the interest of justice. No other Courts vested with such power.

17. On the other hand learned Counsel for the Management referred to a judgment of Supreme Court in **case The Director SAIL India vs. IspatKhadandanMazdoorUnion civil appeal no 8081-8082 of 2011 reported in AIR 2019 SC 3601. Para 33,35,39,41,44,46,48,49** have been specifically referred to by learned counsel as follows:-

"Before we may advert to examine the question in the instantappeals any further, it will be apposite to take note of the legaleffect of the prohibition notification issued by the appropriate Government in exercise of power under Section 10(1) of CL(R&A.) Act and itsexposition by the Constitution Bench of this Court in Steel Authority of India Ltd. and Others (supra) overruling thejudgment in Air India Statutory Corporation and Others (supra).The legal consequence of Section 10(1) of C.L.(R&A)Act,1970. Has been noticed in paragraph 68, 88, 105 and 125 as follows:

"68.We have extracted above Section 10 of C.L.(R&A)Act1970 which empowers the appropriate Government toprohibit employment of contract labor in any process, operation or other work in any establishment, lays down the procedure and specifies the relevant factors which shall betobe taken into consideration for issuingnotification under subsection (1) of Section 10. It is a common ground that the consequence of prohibition notification under Section 10(1)of C.L.(R&A) Act 1970,prohibiting employment contract labor, is neitherspelt out in Section 10 nor indicated anywhere in the Act.

In our view, the following consequences follow on issuing a notification under Section 10(1) of the C.L.(R&A) Act 1970:

(1) contract labor working in the establishment concerned at the time of issue notification will cease to function;

(2) the contract of principal employer with thecontractor in regard to the contract labor comes to an end;

(3) no contract labor can be employed by the principal employer in any process,operation or other work in the establishmentto which the notification relates at any time thereafter;

(4) the contract labor is not rendered unemployed as is generally assumed but continues in the employment of the contractor as the notification does not sever the relationship of master and servant between the contractor and the contract labor;

(5) the contractor can utilise the services of the contract labor in any other establishment in respect of which no notification under Section 10(1) has been issued where all the benefits under the C.L.(R&A) Act 1970 which were being enjoyed by it, will be available;

25 (6) if a contractor intends to retrench his contract labor, he can do so only in conformity with the provisions of the ID Act. The point now under consideration is: whetherautomatic absorption of contract labor working in anestablishment, is implied in Section 10 of the C.L.(R&A) Act 1970 and follows as a consequence on issuance of the prohibition notification there under. We shall revert to this aspect shortly.

88. If we may say so, the eloquence of the C.L.(R&A) Act 1970 in not spelling out the consequence of abolition of contract labor system, discerned in the light of various reports of the Commissions and the Committees and the Statement of Objects and Reasonsof the Act, appears to beat Parliament intended to create a bar on engaging contract labor in theestablishment covered by the prohibition notification,by a principal employer so as to leave no option withhim except to employ the workers as regular employeesdirectly. Section 10 is intended to work as a permanentsolution to the problem rather than to provide a onetime measure by departmentalizing the existingcontract labor who may, by a fortuitous circumstancebe in a given establishment for a very short time as onthe date of the prohibition notification. It could as well be that a contractor and his contract labor who were with an establishment for a number of years were changed just before the issuance of prohibition notification. In such a case there could be nojustification to prefer the contract labor engaged onthe relevant date over the contract labor employed for a longer period earlier. These may be some of the reasons as to why no specific provision is made forautomatic absorption of contract labor in the C.L.(R&A) Act 1970.

105. The principle that a beneficial legislation needs tobe construed liberally in favour of the class for whose benefit it is intended, does not extend to reading in the provisions of the Act what the legislature has not provided whether expressly or by necessary implication, or substituting remedy or benefits for that provided by the legislature. We have already noticed above the intendment of the C.L.(R&A) Act 1970 that it regulates the conditions of service of the contract labor and 26 authorizes in Section 10(1) prohibition of contract labor system by the appropriate Government on consideration of factors enumerated in sub-section (2) of Section 10 of the Act among other relevant factors.But, the presence of some or all those factors, in our view, provides no ground for absorption of contract labor on issuing notification under subsection (1) ofSection 10. Admittedly, when the concept of automatic absorption of contract labor as a consequenceof issuing notification under Section 10(1) by the appropriate Government, is not alluded to either in Section 10 or at any other place in the Act and the consequence of violation of Sections 7 and 12 of the C.L.(R&A) Act 1970 is explicitly provided in Sections 23 and 25 of the C.L.(R&A) Act 1970, it is not for the High Courts or this Court to read in some unspecified remedy in Section10 or substitute for penal consequences specified in Sections 23 and 25 a different sequel, be it absorption of contract labor in the establishment of principal employer or a lesser or a harsher punishment. Such aninterpretation of the provisions of the statute will be far beyond the principle of ironing out the creases and the scope of interpretative legislation and as such, clearly impermissible. We have already held above on consideration of various aspects, that it is difficult toaccept that Parliament intended absorption of contract\labor on issue of abolition notification under Section 10(1) of the C.L.(R&A) Act 1970.

125. The upshot of the above discussion is outlined thus: (1)(a) Before 28¬1-1986, the determination of the question whether the Central Government or the State Government is the appropriate Government in relation to an establishment, will depend, in view of the definition of the expression "appropriate Government"as stood in the C.L.(R&A) Act 1970, on the answer to a furtherquestion, is the industry under consideration carried on by or under the authority of the Central Government or does it pertain to any specified controlled industry, or the establishment of any railway, cantonment board, major port, mine or oilfield or the establishment of banking or insurance company? If the answer is in the affirmative, the Central Government will be the appropriate Government; otherwise in relation to any other establishment the Government of the State in which 27 the establishment was situated, would be the appropriate Government;

(b) After the said date in view of the new definition ofthat expression, the answer to the question referred toabove, has to be found in clause (a) of Section 2 of the Industrial Disputes Act; if (i) the Central Government company/undertaking concerned or any undertaking concerned is included therein nomine, or (ii) any industry is carried on:

(a) by or under the authority of the Central Government, or

(b) by a railway company;or

(c) by a specified controlled industry, then the Central Government will be theappropriate Government; otherwise in relation to any other establishment, the Government of the State in which that other establishment is situated, will be the appropriate Government.

(2)(a) A notification under Section 10(1) of the C.L.(R&A)Act 1970 prohibiting employment of contract labor in anyprocess, operation or other work in any establishment has to be issued by the appropriate Government:

(1) after consulting with the Central AdvisoryBoard or the State Advisory Board, as the case may be, and (2) having regard to

(i) conditions of work and benefits provided for the contract labor in the establishment in question, and

(ii) other relevant factors includingthose mentioned in subsection (2) of Section 10;

(b) Inasmuch as the impugned notification issued bythe Central Government on 9¬12¬1976 does not satisfy the aforesaid requirements of Section 10, it is quashed but we do so prospectively i.e. from the date of thisjudgment and subject to the clarification that on the basis of this judgment no order passed or no action taken giving effect to the said notification on or before28the date of this judgment, shall be called in question inany tribunal or court including a High Court if it has otherwise attained finality and/or it has been implemented.

(3) Neither Section 10 of the C.L.(R&A) Act 1970 nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labor on issuing a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labor, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labor working in the establishment concerned.

(4) We overrule the judgment of this Court in Air India case [(1997) 9 SCC 377] prospectively and declare thatany direction issued by any industrial adjudicator/any court including the High Court, for absorption of contract labor following the judgment in Air India case [(1997) 9 SCC 377] shall hold good and that thesame shall not be set aside, altered or modified on the basis of this judgment in cases where such a direction has been given effect to and it has become final.

(5) On issuance of prohibition notification under Section 10(1) of the C.L.(R&A) Act 1970 prohibiting employment of contract labor or otherwise, in an industrial dispute brought before it by any contract labor in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any givenresult for the establishment or for supply of contractlabor for work of the establishment under a genuine contract or is a mere ruse/camouflage to evadecompliance with various beneficial legislations so as todeprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labor will have tobe treated as employees of the principal employer who shall be directed to regularise the services of the contract labor in the establishment concerned subjectto the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

29 (6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the C.L.(R&A) Act 1970 in respect of the establishment concerned has been issued by the appropriate Government, prohibiting employment of contract labor in any process, operation or other work of any establishment and where in such process, operation or other work ofthe establishment the principal employer intends to employ regular workmen, he shall give preference to the erstwhile contract labor, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately, taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications."

33. The exposition of the judgment of the Constitution Bench ofthis Court made it clear that neither Section 10 nor any other provision in the C.L.(R&A) Act 1970 provides for automatic absorption of contract labor on issuing a notification by the appropriate Government under Section 10(1) of CLRAAct.Consequently, the principal employer is not required or is underlegal obligation by operation of law to absorb the contract laborworking in the establishment. 34. This court in Steel Authority of India Ltd. and Others (supra) further held that on a issuance of notification under Section 10(1) of the CLRA Act, prohibiting

employment of contract labor in any process, operation or other work, if an 30 industrial dispute is raised by any contract labor in regard tocondition of service, it is for the industrial adjudicator to considerwhether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labor for work of the establishment under a genuine contract, or as a mere ruse/camouflage to evade compliance with various beneficial legislations so as to deprive the workers of statutory benefits. If the contract is found to be sham, nominal or camouflage, then the so-called labor will have to be treated as direct employee of the principal employer and the industrial adjudicator should direct the principal employer to regularise their services in theestablishment subject to such conditions as it may specify forthat purpose in the facts and circumstances of the case.

35. On the other hand, if the contract is found to be genuine and a prohibition notification has been issued under Section 10(1) of the CLRA Act, in respect of the establishment, the principal employer intending to employ regular workmen for the process, operation or other work of the establishment in regard to which the prohibition notification has been issued, it shall give 31 preference to the erstwhile contract labor if otherwise found suitable, if necessary by giving relaxation of age as it appears to be in fulfilment of the mandate of Section 25(H) of the Industrial Disputes Act, 1947.

36. It may be noted that the learned counsel for the respondent has placed reliance on the judgments of this Court in Silver Jubilee Tailoring House and Others Vs. Chief Inspector of Shops and Establishments and Another4 ; Hussainbhai, Calicut Vs. Alath Factory Thezhilali Union, Kozhikode and Others 5 ; Indian Petrochemicals Corporation Ltd. and Another Vs. Shramik Sena and Others 6 and these cases have been considered by the Constitution Bench of this Court in SteelAuthority of India Ltd. and Others(supra) of which a detailed reference has been made by us.

37. Tests which are to be applied to find out whether the person is an employee or an independent contractor in finding out whether the contract labor agreement is sham, nominal or a 4 1974(3) SCC 498 5 1978(4) SCC 257 6 1999(6) SCC 439 32 mere camouflage has been examined by this Court in International Airport Authority of India Vs. International Air Cargo Workers' Union and Another7 by the two¬judge Bench of this Court. The relevant paras are as under:¬ "38. The tests that are applied to find out whether aperson is an employee or an independent contractor may not automaticallyy apply in finding out whether the Contract labor agreementis a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labor, necessarily, the labor supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directsthe work to be done by a contract labor, when such labor is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when thecontractor assigns/sends the worker to work under the principal employer, the worker works under thesupervision and control of the principal employer butthat is secondary control. The primary control is with the contractor."

38. These are the broad tests which have been laid down by thisCourt in examining the nature and control of the employer and 72009 (13) SCC 37433 whether the agreement pursuant to which contract labor has been engaged through contractor can be said to be sham, nominal and camouflage.

46. To test it further, apart from the statutory compliance which every principal establishment is under an obligation to comply with, its non-compliance or breach may at best entail in penal consequences which is always for the safety and security of the employee/workmen which has been hired for discharge of the nature of job in a particular establishment. The exposition of law has been further considered in International Airport Authority of India case(supra) where the contract was to supply of labor and necessary labor was supplied by the contractor who worked under the directions, supervision and control of the principal employer, that in itself will not in any manner construe the contract entered between the contractor and contract labor to be sham and bogus per se. Thus, in our

considered view, if the scheme of the C.L.(R&A) Act 1970 and other legislative enactments which the principalestablishment has to comply with under the mandate of law and taking note of the oral and documentary evidence which came on record, the finding which has been recorded by the CGIT under its award dated 16th September, 2009 in absence of the finding of fact recorded being perverse or being of no evidence and even if there are two views which could possibly be arrived at, the view expressed by the Tribunal ordinarily was not open to be interfered with by the High Court under its limited scope of judicial review under Article 226/227 of the Constitution of India and this exposition has been settled by this Court in its various judicial precedents.

48. It is true that judgment in Dena Nath and Others (supra) is in reference to failure of compliance of Section 7 and 12 and not in reference to Section 10(1) of the C.L.(R&A) Act 1970 but if we look into the scheme of C.L.(R&A) Act 1970 which is a complete code in itself, non¬compliance or violation or breach of the provisions of the C.L.(R&A) Act 1970, it result into penal consequences as has been referrd to in Sections 23 to 25 of the Act and there is no provision which would entail any other consequence other than provided under Section 23 to 25 of the Act.

17. Learned counsel for Management has further referred to a decision of Supreme Court inSLP No.33798-33799 2014, BHARAT HEAVY ELECTRICALS LTD. Vs MAHENDRA PRASAD JAKHMOLA & ORS.

The relevant portion of the judgment referred to by learned counsel is being reproduced as follows:-

"We, now come to some of the judgments cited by Shri Sudhir Chandra and Ms. Asha Jain. In 'General Manager, (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon v. Bharat Lala and Another' [2011 (1) SCC 635], it was held that the well recognised tests to find out whether contract laborers are direct employees are as follows:

"10. It is now well settled that if the industrial adjudicator finds that the contract between the principal employer and the contractor to be a sham, nominal or merely a camouflage to deny employment C.A. NOS. 1799-1800/ 2019 etc. (@SLP (C) Nos. 33747-33748/ 2014 etc.) benefits to the employee and that there was in fact a direct employment, it can grant relief to the employee by holding that the workmen is the direct employee of the principal employer. Two of the well-recognized tests to find out whether the contract laborers are the direct employees of the principal employer are: (i) whether the principal employer pays the salary instead of the contractor;

and (ii) whether the principal employer controls and supervises the work of the employee. In this case, the Industrial Court answered both questions in the affirmative and as a consequence held that the first respondent is a direct employee of the appellant" The expression 'control and supervision' were further explained with reference to an earlier judgment of this Court as follows:

"12. The expression "control and supervision" in the context of contract labor was explained by this Court in International Airport Authority of India v. International Air Cargo Workers' Union thus: (SCC p.388, paras 38-39) "38.... if the contract is for supply of labor, necessarily, the labor supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labor, when such labor is assigned/allotted/sent to him.

But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer C.A. NOS. 1799-1800/ 2019 etc. (@SLP (C) Nos. 33747-33748/ 2014 etc.) but that is secondary control. The primary control is with the contractor." From this judgment, it is clear that test No. 1 is not met on the facts of this case as the contractor pays the workmen their wages. Secondly, the principal employer cannot be said to control and supervise the work of the employee merely because he directs the workmen of the contractor 'what to do' after the contractor assigns/ allots the employee to the principal employer. This is precisely what paragraph 12 explains as being supervision and control of the principal employer that is secondary in nature, as such control is exercised only after such workmen has been assigned to the principal employer to do a particular work.

We may hasten to add that this view of the law has been reiterated in 'BalwantRaiSaluja and Another v. Air India Limited and Others' [2014(9) SCC 407], as follows:

"65. Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship would include, inter alia:

(i) who appoints the workers;

(ii) who pays the salary/remuneration;

(iii) who has the authority to dismiss;

(iv) who can take disciplinary action;

(v) whether there is continuity of service; and

(vi) extent of control and supervision i.e. whether there exists complete control and supervision.

As regards extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case [(2011) 1 SCC 635], International Airport Authority of India case [2009 13 SCC 374] and Nalco case [(2014) 6 SCC 756]." C.A. NOS. 1799-1800/ 2019 etc. (@SLP (C) Nos. 33747-33748/ 2014 etc.) However, Ms. Jain has pointed out that contractors were frequently changed, as a result of which, it can be inferred that the workmen are direct employees of BHEL."

18. Another case **Bengal Nagpur Cotton Mills 2011 Vol.1 SCC 635 (para-10, 14, 16, 8 and 12)** referred to by learned counsel is also the relevant paragraphs of which are being reproduced as follows:-

"The expression 'control and supervision' in the context of contract labor was explained by this court in International Airport Authority of India v. International Air Cargo Workers Union [2009 (13) SCC 374] thus: "If the contract is for supply of labor, necessarily, the labor supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor. The principal employer only controls and directs the work to be done by a contract labor, when such labor is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

19. The case of **Himmat Singh vs ICI India (2008) 3 SCC** Preferred to by learned counsel for Management the referred paragraphs of the judgment are being reproduced as follows:-

"A few observations made by the High Court which are relevant need to be noted. It was held by the High Court as follows: "The labor court has held that the petitioners were not working as helpers to the fitters; they were not paid by the company; and were engaged on contract for intermittent work i.e. they did not have regular or permanent work. The work that the petitioners do may be similar to the work of the workmen of the company, but they are not doing the work that is ordinary part of the industry. This is for reason that they- ? did not have permanent work; ? were engaged in intermittent work and ? themselves claimed to be workmen of the contractor Rehman in proceedings under Rule 25 of the Labor Contract Act and got benefit under the same." 9. Similarly, the Labor Court noted that contractor Rehman had applied to the administration for licence under the State Contract Labor Act and considering the nature of the contract licence has been granted to him. 10. In Steel Authority of India Ltd. v. Union of India &Ors. [2006(12) SC 233] it was inter-alia held as follows: "The workmen whether before the Labor Court or in writ proceedings were represented by the same union. A trade union registered under the Trade Unions Act is entitled to espouse the cause of the workmen. A definite stand was taken by the employees that they had been working under the contractors. It would, thus, in our opinion, not lie in their mouth to take a contradictory and inconsistent plea that they were also the workmen of the principal employer. To raise such a mutually destructive plea is impermissible in law. Such mutually destructive plea, in our opinion, should not be http://JUDIS.NIC.IN SUPREME COURT OF INDIA Page 3 of 3 allowed to be raised even in an industrial adjudication. Common law principles of estoppel, waiver and acquiescence are applicable in an industrial adjudication." 11. In view of the factual position highlighted above and the ratio of the decision in Steel Authority's case (supra), the inevitable result is that the appeal is sans merit, deserves dismissal, which we direct with no order as to costs.

20. Airport**Authority of India vs. IndianAirportKamgar 2011 Vol.1 L.L.J page-II Bombay para 32,33,37** referred to by learned counsel for the Management. Wherein, award allowing reference regarding same character of engagement of contract labor was held now allowed in light of facts peculiar to the case referred.

Another case**of Post Master General vs. Tutudas (2007)5 SCC 317.**

Wherein, it has been held that **illegal/improper grant of regularization to similarly situated persons does not create and entitlement to regularization on the ground of equal treatment under article 14 of constitution as equality is a positive concept and can not be invoked where any illegality has been committed or where no legal right has been established.**

21. In another case **Dhampur Sugar Mills VsBhola Singh AIR 2005 SC page no 1790,** referred to by learned counsel for management it has been laid down that:

completion of 240 days in continuous service may not itself be ground for regularization of service particularly in case when workmen had not been appointed in accordance with rules.

22. The case of **HaldiyaEmployees Union Vs. Indian Oil Corporation 2005 CAB IC page 2078 SC** also referred to by learned counsel of which relevant paragraphs 15,16,17 & 20 specifically referred by the learned counsel are being reproduced as follows:-

"**No doubt, the respondent management does exercise effective control over the contractor on certain matters in regard to the running of the canteen but such control is being exercised to ensure that the canteen is run in an efficient manner and to provide wholesome and healthy food to the workmen of the establishment. This however does not mean that the employees working in the canteen have become the employees of the management. A free hand has been given to the contractor with regard to the engagement of the employees working in the canteen. There is no clause in the agreement stipulating that the canteen contractor unlike in the case of Indian Petrochemicals Corporation Ltd. & Another (supra) shall retain and engage compulsorily the employees who were already working in the canteen under the previous contractor. There is no stipulation of the contract that the employees working in the canteen at the time of the commencement of the contract must be retained by the contractor. The management unlike in Indian Petrochemicals Corporation Ltd. case (supra) is not reimbursing the wages of the workmen engaged in the canteen. Rather the contractor has been made liable to pay provident fund contribution, leave salary, medical benefits to his employees and to observe statutory working hours. The contractor has also been made responsible for the proper maintenance of registers, records and accounts so far as compliance of any statutory provisions/obligations are concerned. A duty has been cast on the contractor to keep proper records pertaining to payment of wages etc. and also for depositing the provident fund contributions with authorities concerned. Contractor has been made liable to defend, indemnify and hold harmless the employer from any liability or penalty which may be imposed by the Central, State or local authorities by reason of any violation by the contractor of such laws, regulations and also from all claims, suits or proceedings that may be brought against the management arising under or incidental to or by reason of the work provided/assigned under the contract brought by employees of the contractor, third party or by Central or State Government Authorities. The management has kept with it the right to test, interview or otherwise assess or determine the quality of the employees/workers with regard to their level of skills, knowledge, proficiency, capability etc. so as to ensure that the employees/workers are competent and qualified and suitable for efficient performance of the work covered under the contract. This control has been kept by the management to keep a check over the quality of service provided to its employees. It has nothing to do with either the appointment or taking disciplinary action or dismissal or removal from service of the workmen working in the canteen. Only because the management exercises such control does not mean that the employees working in the canteen are the employee of the management. Such supervisory control is being exercised by the management to ensure that the workers employed are well qualified and capable of rendering the proper service to the employees of the management."**

Following settled propositions of law emerges:-

A. The point whether the contract is sham, bogus and camouflage will arise only when the work contract which was allotted to the contractor was of non-prohibited category and also in cases where though the work contract which was allotted to the contractor was of non-prohibited categoryit become in prohibited category later on under the notification issued by appropriate Government under Section 10(1) of C.L.(R&A) Act 1970.

B. In reaching at a point whether the work contract was sham bogus and camouflage, the relevant facts for consideration will be as to firstly,who was to exercise the effective supervision and control. Secondly,at whose site, the workmen were engaged, thirdly, who paid the wages and fourthly, who provided instruments and training and other facts like this is settled in the aforesaid judgments. It is also settled that what is the effective control and supervision from industry to industry and control and supervision is not only criteria for reaching at the conclusion whether the work contract was sham, bogus or camouflage also what effective control and supervision is shall differ from industry to industry, fact wise.

23. Now coming to the facts and evidence in the case in hand, in the light of above mentioned settled preposition of law and relevant provision, the case of workman union on this point is that they were engaged by management and just to deprive them of their legally admissible rights the Management set up a camouflage contractor who has given the color of work done by contract labour. Thus according to the workman union, the contract is nothing but a smoke screen in the eyes of law , it is sham and bogus just to deprive the workman of their legally admissible claims. It has come in evidence that these workman used to do this job of tub repairing at the sites of Management also with the instruments and material for its work was provided by the Management. Further more they were doing their duties under the supervision of Management. They imparted vocational training and service by Management of SECL. The case of the Management is that it had only a limited supervision and these workmen in fact worked under the control and direction of the contractor also. It has been submitted that the control and supervisionof these workman by Management was provided in the work agreements. Learned counsel has referred to para-18 and 21 of the case "**General Manager, Oil and Natural Gas Commission, Silchar Vs. Oil and Natural Gas Commission Contractual workers union, (2008)12 Supreme Court Cases 275**".

The relevant portion of the judgment is quoted below: -

*"**Para-18: ..... We, however, believe that this present case is not one of regularization simpliciter such as in the case of an ad hoc or casual employee claiming this privilege. The basic issue in the present case is the status of the workmen and whether they were the employees of ONGC or the contractor and in the event that they were the employees of the former, a claim to be treated on a par with other such employees. As would be clear from the discussion a little later, this was the basic issue on which the parties went to trial, notwithstanding the confusion created by the ill-worded reference.***

Para-21: Even ONGC had admitted that since 1988, there was no licensed contractor and that wages were being paid through one of the leaders of Union, and one person who was named as contractor, was in fact himself a workmen whose name appeared in acquaintance roll. Real issue therefore was regarding status of workmen as employees of ONGC or of contractor, and it having found that workmen were employees of ONGC, they would ipso facto be entitled to benefits available in that capacity.Issue of regularization would therefore pale in insignificance. The Industrial Tribunal and Division Bench of the High Court were justified in lifting the veil in order to determine nature of employment."

24. Learned Counsel for Management has referred to Judgment of Supreme **Court Oshiar Prasad &Ors. Vs. Employees in relation to management Sudam-D coal washery of BCCI Dhanbad- 2015-ILLJ-513SCpara-25 which is as follows-**

It is thus clear that the appropriate Government is empowered to make a reference under Section 10 of the Act only when "Industrial dispute exists" or "is apprehended between the parties". Similarly, it is also clear that the Tribunal while answering the reference has to confine its inquiry to the question(s) referred and has no jurisdiction to travel beyond the question(s) or/and the terms of the reference while answering the reference. A fortiori, no inquiry can be made on those questions, which are not specifically referred to the Tribunal while answering the reference.

25. It is further submitted by learned counsel for workmen union that the burden of proof lies on management to prove that the concerned workers are contract labor and also the contract is genuine. Union placed reliance on the judgment reported in the case of***"Caparo Engineering India Limited Vs. Pradhanmantri Engineering ShramikSanghthan, 2019 (1)MPLJ 147***." The relevant portion is reproduced below: -

"(b) Evidence Act, S.102 – Burden of proof – Petitioner-company's case that employees are contract labor – therefore, Labor Court has rightly shifted burden on them to establish this – No error committed by Labor Court while directing petitioner to lead evidence and prove that respondents are contract laborers (para-31)"

26. The management could not produce its certificates of registration no could it produce the licence of the contractor Nazirullah which is issued to Principal Employer and contractors in CLRA Act,1970. The Management has produced and proved documents Exhibit M-6 to M-19 these are certain communication between the Management and certain contractors. The name of the contractor mentioned in the case in hand also finds mention. This contractor has filed his affidavit as his examination in chief but he could not be produced for his cross-examination due to his death. All the workman witnesses have categorically stated that this so called contractor also used to work with them in tub repairing work shop as a tub-repairing worker. The witness have stated that he sued to collect payment on behalf of all the workman from the management and then this amount was distributed amongst the workers. His daughter has been examined by the workman union. She has proved the attendance register maintained during this period and has corroborated the statement of workman witness as stated above. O the other side the management witness have corroborated the case of the Management that in fact Nazirullah was a contractor and was awarded contract of tub repairing for which different work orders were signed between the Management and him in different periods. These work orders and payment vouchers have been referred already.

27. From the above description evidence, the following proved facts come out:-

A. There is no registration certificate issued by the concerned Labour Commissioner to the Management of SECL chirmiri area as an employer for this period produced by Management.

B. Nolicence to the alleged contractor Nazirullah for engaging contract labour issued by the Management has been produced by the Management.

28. Reference of Section 2(h) of Indian Contract Act requires to be taken here which define all the contract as it is so because C.L.(R&A) Act 1970 does not define contract. Section 2(h) reads as under:-

"Contract is an agreement enforceable by law."

According to **Section 23 of Indian Contracts Act** which deals with the as what consideration and object are lawful and what not is being reproduced as follows:-

"**what considerations and objects are lawful and what not-....**

The consideration or object of an agreement is lawful unless-

It is forbidden by law, or

Is of such nature that, if permitted, it would defeat the provision of any law or is.....

....."

Similary Section 24 of the said Act is also being reproduced as follows:-

"**If any part of a single consideration for one or more objects, or any or any part of several considerations for a single object, is unlawful, the agreement is void."**

29. In the light of the above noted provisions of Indian Contract Act since even the first work agreement between the parties was against prohibitions of law as it defeats the provisions of NCWA and Section 10(1) of the C.L.(R&A) Act 1970 at the very time it was entered into by the parties because these prohibitions were enforced before the agreement was entered into by the parties will be *void abintio* in law meaning thereby there is no contract at all as per law between the parties. Same will be the fate of other so called work contracts entered into by the parties after the first work agreement. Thus it is not legally permissible on the part of Management to contend that all the work of supervision, training and other actions detailed earlier were in the light of terms of the work agreement because the said work agreement ar*e void ab initio*, as discussed above right from the date of the agreements. The natural inference/consequences of this will be that it will be deemed that in fact the control of supervision of workers by Management, training of workers management, providing tools and instruments by Management etc. where done by the Magistrate on their own. It cannot be taken to be done if the work contract is *void abinitio*, admitted is the fact between the parties is that the said workmen worked on the sight which was owned by the Management i.e. is to say that the work place was the premises of Management i.e. principal employer.

30. Hence following facts are held proved in the light of above discussion which is as follows:-

(1) The work agreement was violative of legal provisions and prohibitions from the very first date the parties entered into the agreement.

(2) Since the object of the work agreement was not to defeat the provisions of law i.e. to say not lawful hence all the work agreements are *void abintio* from their date of inception.

(3) As the work agreement are *void abinitio*, hence cannot be held that Management control and supervision and other actions as discussed above, was done by Management in the light of the terms of the work agreement.

31. Accordingly, in the light of above provisions, this Tribunal is constrained **to hold that the work agreements between the principal employer and allotted to contractor was sham, bogus and camouflage, defeating the provisions of law, the sole aim of which was to deprive the workmen of their legally admissible claims, stands proved**.

Issue No.2 is answered accordingly.

32. **ISSUE No. 3:-**

In the light of the findings recorded earlier at Issue No.1 & 2 the workmen who were engaged via the sham and bogus agreement as a camouflage shall be deemed to be under employment of the principal employer which is SECL and are held so.

33. Reference of Section 2(oo) of Industrial Disputes Act, Section 25(b)(2), Section 25(f) and Section 25(N) of Industrial Dispute Act,1947 are being reproduced as follows:-

2[(oo) "retrenchment" means the termination by the employer of the service of a workmen for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include— (a) voluntary retirement of the workmen; or (b) retirement of the workmen on reaching the age of superannuation if the contract of employment between the employer and the workmen concerned contains a stipulation in that behalf;

25F. Conditions precedent to retrenchment of workmen.—No workmen employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until— (a) the workmen has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice; (b) the workmen has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

2 [25N. Conditions precedent to retrenchment of workmen.—(1) No workmen employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,— (a) the workmen has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice; and (b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf. (2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner. (3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen. (4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days. (5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order. 1. Sub-section (6) re-numbered as sub-section (10) by Act 49 of 1984, s. 4 (w.e.f. 18-8-1984). 2. Subs. by s. 5, ibid., for section 25N (w.e.f. 18-8-1984). 33 (6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workmen, review its order granting or

refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication: Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference. (7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workmen and the workmen shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him. (8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct, that the provisions of sub- section (1) shall not apply in relation to such establishment for such period as may be specified in the order. (9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workmen who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

Conditions precedent to retrenchment of workmen.—No workmen employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until— (a) the workmen has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice; (b) the workmen has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2 [for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3 [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

2 [25N. Conditions precedent to retrenchment of workmen.—(1) No workmen employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,— (a) the workmen has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice; and (b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf. (2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner. (3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen. (4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days. (5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order. 1. Sub-section (6) re-numbered as sub-section (10) by Act 49 of 1984, s. 4 (w.e.f. 18-8-1984). 2. Subs. by s. 5, ibid., for section 25N (w.e.f. 18-8-1984). 33 (6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workmen, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication: Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference. (7) Where no application for permission under sub-section (1) is

made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workmen and the workmen shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him. (8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct, that the provisions of sub- section (1) shall not apply in relation to such establishment for such period as may be specified in the order. (9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workmen who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

Section 25.B. (Definition of continuous service):-

Where a workmen is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-

(a) For a period of one year, if the workmen, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) one hundred and ninety days in the case of a workmen employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) For a period of six months, if the workmen, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than-

(i) ninety-five days, in the cae of wrkman employed below ground ina mine and

(ii) one hundred and twenty days, in any other case.

(i) he has been laid off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Act or under any other law applicable to the Industrial establishment;

(ii) he has been on leave with full wages, earned in the previous years;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) In the case of a female, she has been on maternity leave; soi however, that the total period of such maternity leave does not exceed twelve weeks.

34. The workmen witnesses have stated that they worked continuously and documents produced by Management regarding contract and execution of work also states that they worked continuously in the years preceding date of their disengagement. There is nothing on record to indicate otherwise, hence, their case that they worked for a period of 190/240 days in the year preceding their disengagement is held proved. **Since it is not the case of the Management that any notice or compensation was given to the workmen, their disengagement is held against law and fact.**

Issue No. 3 is answered accordingly.

34. ISSUE No. 4:-

In the light of the findings recorded above, the point needs to be responded is as to what relief these workmen are entitled. For the legal consequences arising out of engagement of contractor workers when the contract is found a camouflage have been dealt with in five Judges Bench of Case of **Steel Authroity of India Supra in para 125 (5 & 6) which is being reproduced as follows:-**

On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for

work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularise the services of the contract labour in the concerned establishment subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.

(6) If the contract is found to be genuine and prohibition notification under Section 10(1) of the CLRA Act in respect of the concerned establishment has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the condition as to academic qualifications other than technical qualifications.

35. Further there is an Award in an Industrial Arbitration between the management of SECL i.e. the Management in the case in hand and tub repairing workers engaged through contractors in Hasdeo Area of the management which is names as Bhave Award. A copyof this Award is on file. In this Award around 200 tub repaid workers were held entitled to be departmentalized as Category-II Mazdoor and were also held entitled to all the consequential benefits admissible to all the Category –II workers mazdoor. The only difference between those tub-repair workers covered under the said Award dated 13-8-1990 and tub-repair workers in the case in hand is that the former were engaged in Hasdeo Area of SECL whereas the later were engaged in the Chirmiri Area of SECL, hence, in such circumstances the applicant workman , the tub-repairing workers in the case in hand are held entitled to parity with other counter parts covered under the Award.

36. Thirdly the Tub-repair mazdoor is classified as a cadre in Category-2 in the nomenclature mentioned in the job description and classification of coal employees inforce since 15-9-1986. The Rub-repairing Mistri is mentioned at Serial No.15 of Category-4 workers. Further more, it is the case of the workman union that regular work force is employed by Management for the job of Tub-Repairing in other areas/sub-area which is not specifically disputed by Management. This fact finds mention in the Bhave Award, also as mentioned above. These facts also support the finding holding the 10 tub repair workers in the case in hand entitled to be classified in Category-II from the date of reference.

37. One more fact remain to be considered that these workmen have been engaged in the year 1992 and now it can be assumed that after a lapse of about 30 years and also keeping in mind that they were engaged in 1978, they would have attained the age of superannuation. Hence the workmen are held entitled to be reinstated with all back wages and benefits admissible to Category-II workers as mentioned in Bhave Award and also post retiral benefits if any till the date of their superannuation/death.

38. The workmen Union who has espoused the case of these workmen since the last 30 years is also held entitled to cost of litigation quantified at Rs.50,000/-. **Issue No.4 is answered accordingly.**

39. On the basis of the above discussion, following award is passed:-

A. The action of the management of Chirmiri Colliery of Chirmiri Area of SECL in employing 10 workers on the tub repairing work between the period 1978 to 1992 as contract labour was a camouflage.

B. The 10 workers are entitled to be treated at par with tub-repairing workers covered in Bhave Award i.e. Reference No.1/1989 dated 30-8-1990 and are held entitled to be departmentalized as Category-II employees from the date of their first appointment and all consequential benefits. They are further held entitled to be reinstated with all back wages and pre as well as post retiral benefits mentioned above till their date of their superannuation/death

40. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

Date: 12.10.2022

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 31 अक्तूबर, 2022

का.आ. 1104.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बडौदा यू पी ग्रामीण बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 12/2020) को प्रकाशित करती है।

[सं. एल-12011/01/2020-आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 31st October, 2022

S.O. 1104.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2020) of the *Cent. Govt .Indus. Tribunal-cum-Labour Court Kanpur* as shown in the Annexure, in the industrial dispute between the management of Baroda U.P. Gramin Bank and their workmen.

[No. L- 12011/01/2020– IR(B-1)]

A. K. YADAV, Under Secy.

ANNEXURE

BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, KANPUR

PRESENT : SOMA SHEKHAR JENA, HJS (Retd.)

I.D. No. 12 of 2020

L-12011/01/2020-IR(B-I) dated 04.02.2020

BETWEEN :

The General Secretary,
Bhartiya Poorva Sainik Bank Karamchari Sangh,
555-Indira Nagar,
UNNAO(UP)-209001

AND

1. The Regional Manager,
   Baroda U.P Gramin Bank, Regional Office,
   117-N/26, Kakadeo,
   Kanpur (U.P)-208025

2. The Chairman,
   Baroda U.P Gramin Bank, Head Office,
   A-1, Civil Lines,
   Raibareli (U.P)-229001

AWARD

This award arises in respect of the reference mentioned in the schedule stated below as received from the Government of India in letter no. L-12011/01/2020-IR(B-I) dated 04.02.2020

SCHEDULE

1. ***"Whether the action of the management of Baroda U.P. Gramin bank in not following the transfer policy of the bank while considering request transfer of employees although considering the request of their juniors in violation of Transfer Policy, is just and legal. If not, to what relief union is entitled to?"***

On receipt of notification, notices were issued to both the parties on 6th June 2020 fixing 01.07.2020 for filing of claim statement. But none appeared on behalf of claimant workman on the fixed date though Authorized Representative appeared on behalf of the management and filed an authority letter on the fixed date.

On perusal of the record it is found that though several dates were fixed for filing the claim statement but none appeared on behalf of the claimant before the Tribunal. Despite giving ample opportunities to the claimant union for submitting statement of claim; the union failed to present its case before the Tribunal. On 08.09.2022 the case was reserved for final award for non-appearance of the worker's union.

From the aforesaid circumstances it is presumable that the claimants workmenand the union are not interested in prosecuting the case further before the Tribunal.

Hence in the given circumstances the reference stands disposed of as of `NIL` award.

Parties are left to bear their respective costs.

Let a soft copy be sent to the Ministry and two hard copies of the same will follow in due course of time.

Date: 09.09.2022

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 1 नवम्बर, 2022

का.आ. 1105.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 नई दिल्ली के पंचाट (संदर्भ संख्या 126/2013) को प्रकाशित करती है।

[सं. एल- 12012/74/2013-आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 1st November, 2022

S.O. 1105.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 126/2013) of the *Cent .Govt. Indus. Tribunal-cum-Labour Court II New Delhi* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L- 12012/74/2013– IR(B-1)]

A. K. YADAV, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE No. 126/2013

Date of Passing Award- 24.08.2022

Between:

Shri Pankaj Gupta,
S/o Shri Bhawani Prasad Gupta,
VPO, Anarwala, Garhi Cantt.,
Dehradun-248001. ...Workman

Versus

1. The Branch Manager,
State Bank of India,
Johrigaon Branch, PO, Sinola,
Dehradun.

2. Shri Manmohan Singh,
C/o UAMP Associates,
C/o State Bank of India,
Johrigaon Branch,
Dehradun ...Management

Appearances:-

Shri Ajay Gupta (A/R) : For the claimant

Shri Ms. Kittu Bajaj (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of State Bank of India, and its workman/claimant herein, under clause (d) of sub section (1)and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/74/2013 IR(B-I) dated 15/10/2013 to this tribunal for adjudication to the following effect.

> "Whether the action of the management of State Bank of India, Johrigaon Branch in terminating the services of Shri Pankaj Gupta without complying with provisions of 25, F,G, II of the Id Act, is unjustified? To what relief workman is entitled to?"

As per the claim statement the claimant was working with the management SBI since February 2009 as a canteen boy at Dehradun and his last drawn salary was Rs. 6000/ per month. There was a contract between management No.1 and 2 and according to that contract executed on 01.05.2011 the claimant though entitled to Rs. 6000/- per month salary the management No.1 i.e. SBI was paying only Rs. 3000/- per month to him. This was below the minimum wage notified by the state government. Objection being raised by the claimant the management No.1 and 2 were often assuring him to pay the arrear and with that hope he continued to work in the premises of management No.1 till March 2012 when both the managements suddenly prevented him from entering into premises of management No.1 which in effect was termination of service. At the time of such termination neither the notice of termination, notice pay or termination compensation where paid to him. Despite repeated demand the claimant was not paid the arrear of his salary. Finding no other way he raised a complaint before the conciliation officer and before that a demand notice was served on management No.1. The conciliation process was adjourned to different dates, but failed due to the non cooperation of the management. The conciliation officer then issued a failure report and the appropriate government made a reference. The workman has further stated that he is always ready and willing to work in the premises of the management and since the date of termination he is unemployed. Thus, in this claim he has prayed for a direction to the management no.1 to reinstate him in service with full back wage, other consequential benefits and damage including cost of the litigation.

The management No.2 i.e Manmohan Singh Care of UAMP Associates filed written statement stating that he had entered into a contract with management no.1 for supply of manpower and as per the terms of the said contract sweepers were appointed in the premises of respondent no.1 who are still continuing. But the claimant was never employed by this respondent No.2 and there exists no employer and employee relationship between them. Management No.2 also pleaded that the claimant has not prayed any relief against the management no.2 and as such the claim statement in respect of the management no.2 ought to be dismissed.

The management No.1 i.e SBI filed the written statement denying its employer and employee relationship with the claimant. By submitting a table showing the days of engagement month wise and remuneration paid to the claimant the respondent no.1 has stated that the claimant was never in continuous service of the management and he was being engaged for intermittent work only. During the period between 04.02.2009 to 30.04.2011 he had worked for 137 days only and got the remuneration according to the days of work done. After 01.05.2011 the bank entered into a valid contract with M/s UAMP Associates for housekeeping and sweeping work. The claimant was employed by M/s UAMP Associates for the said services and engaged in the Branch premises. M/s UAMP Associates replaced the service of the claimant w.e.f 01.04.2012 by engaging another person namely Raj Kamal. Hence, the allegation that the service of the claimant was illegally terminated by the management No.1 is false. It has also been stated that the management Bank had never paid salary to the claimant directly and no record to that effect is available. It has been reiterated that there was no privity of contract between the claimant and the management No.1 and the management No.1 had a valid contract with management No.2 only for housekeeping work. Thus, the management No.1 has pleaded for dismissal of the claim petition.

The claimant filed rejoinder reiterating that he was working as a canteen boy in the premises of bank of management no.1 and his service was illegally terminated on 30.04.2011.

On these rivals pleading the following issues are framed for adjudication.

ISSUES

1. Whether the action of the management of SBI, Johrigaon Branch in terminating the services of Shri Pankaj Gupta without complying with provisions of 25F, 25G, 25H of the Id Act is unjustified? If so its effect?

2. To what relief the workman is entitled to and from which date?

The claimant testified as WW1 and was cross examined at length. At that juncture the Ld. A/R for the claimant expressed his intention to file an application for reexamination of WW1 but later on no such application was moved. But another application was moved by the claimant wherein a prayer was made for production of documents by management No.1 and 2. Accordingly by order dated 27.10.2016 both the

managements were directed to produce the documents as per the application filed by the claimant. Liberty was also granted to the management to filed attested photocopies instead of filing the originals. For the failure on the part of the management to file the documents, by order dated 17.01.2017 the claimant was directed to file secondary evidence of the documents which were called from the custody of the management. The claimant took several times for collection of the said documents and ultimately on 6th December 2018 expressed that the documents proposed to be proved as secondary evidence are not available with him. The matter was then adjourned for management evidence. The management no.2 instead of adducing evidence insisted for deletion of its name from the proceeding which was kept pending for consideration at the time of final hearing. By order dated 16th October 2019 the right of the management to adduce evidence was closed and opportunity was given to the management no.2 for adducing evidence. But management no.2 did not adduce evidence on the date fixed and its right too was closed and argument was heard.

At the outset of the argument the Ld. A/R for the management No.1 submitted that the claimant has miserably failed to establish its relationship as employee with management No.1. He was engaged for a brief period by the management no.2 and for reasons best known to the said management his service was replaced by another person. She also argued that management no.1 is a Nationalized Bank having its own rules and procedure for engagement of persons in the post of sweeper or any other group D category. But the bank has no post like canteen boy. She also argued that when the management has denied the employer and employee relationship it is incumbent upon the claimant to prove the same. The Ld. A/R for the management No.2 on the other hand submitted that for a short period the claimant was engaged by it and deployed in the premises of management No.1 as a sweeper. For the dissatisfactory work performance he was replaced by another person. Since, no relief has been sought against management No. 2, its name should be deleted from the proceeding.

On the other hand the Ld. A/R for the claimant argued that the claimant was working in the premises of management No.1 from February 2009 to March 2012 when his service was brought to an abrupt end for the legal demands raised by him. The claimant was never the employee of management no.2 and was directly employed by management no.1. He had worked for 4 years continuously till March 2012. All the documents relating to his employment are available with management no.1 but the management intentionally withheld the same in order to deprive the claimant from his lawful rights. He also argued that when the claimant adduced evidence with regard to his engagement with the management and the management has failed to adduce any rebuttal evidence the same is to be accepted. Admittedly no oral or documentary evidence has been adduced by the management no.1 and 2.

In his oral testimony the claimant has supported the stand taken in the claim petition and filed photocopy of some papers marked as WW1/1 to WW1/15. During cross examination he admitted that no appointment letter was issued to him by the bank. He also admitted that no document is available with him to prove that he had worked in the bank for 240 days continuously before the alleged termination. During the pendency of the proceeding he had filed an application for calling some documents from the Bank management. Those documents were the attendance register and payment vouchers etc. since the Bank denied possession of the same the claimant was given the liberty of adducing secondary evidence. But no secondary evidence was placed on record. On the contrary the management no.2 filed photocopy of the contract entered between the state Bank and himself and the photocopies of the attendance register of the persons employed in the premises of management no.1. The said photocopy doesn't contain the name of the claimant anywhere. Thus, the evidence on record no way proves the employer and employee relationship between the claimant and the management no.1 nor the evidence proves that the claimant had worked for 240 days in the establishment of management no1 during the calendar year preceding the date of alleged termination.

The law is well settled that the burden of proving employer and employee relationship always rests on the person ascertain the same. In the case of **Ram Singh and others vs. Union territory of Chandigarh and others reported in (2004)1SCC page 126** it has been held that for determination of employer and employee relationship the factors to be considered inter alia are (i) control (ii) integration (iii) power of appointment and dismissal (iv) liability to pay remuneration (v) liability to organize the work (vi) nature of mutual obligation etc.

The factual matrix of the present dispute as evident from the oral and documentary evidence is that no letter of appointment was issued to the claimant. Similarly there is no document available on record to presume that the management bank was exercising control for integration of the work allegedly done by the claimant. There is also no material on record that the claimant was getting monthly remuneration like other employees of the Bank and he was signing the attendance register in acknowledgment of his daily attendance of duty. The mutual obligation in the nature of deducting PF subscription and extension of other benefits is no way evident from documents filed by the parties. Once the employer and employee relationship is not established it is not proved that the claimant's service was terminated and that to illegally without following the provisions of section 25F of the ID Act by the management. This point is accordingly decided against the claimant workman.

In view of the finding arrived in respect of the employer and employee relationship, holding that the claimant was not the employee of the management Bank and his service was not illegally terminated it is held that the claimant is not entitled to the relief sought for. Hence, ordered.

ORDER

The claim be and the same is dismissed on contest and the reference is accordingly answered against the workman. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

24th August, 2022.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2022

का.आ. 1106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स कोटक महिंद्रा ओल्ड म्युचुअल लाइफ इंश्योरेंस लिमिटेड प्रबंध तंत्र के सबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 नई दिल्ली के पंचाट (संदर्भ संख्या 128/2020) को प्रकाशित करती है।

[सं. एल-12012/05/2020-आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 2nd November, 2022

S.O. 1106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 128/2020) of the Cent.Govt.Indus.Tribunal-cum-Labour Court -II New Delhi as shown in the Annexure, in the industrial dispute between the management of M/s Kotak Mahindra Old Mutual Life Insuramce Ltd and their workmen.

[No. L-12012/05/2020– IR(B-1)]

A. K.YADAV, Under Secy.

ANNEXUR

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty

ID.No.128/2020

Shri Deep Chand Sharma S/o Sh. Jitender Dutt Sharma,
Through India Steel and Metal Workers Union,
(Regd. No. 4377) 1801/9 Govindpuri Extension,
Main Road, Kalkaji,
New Delhi-110019. ... Workman

Versus

1. M/s Kotak Mahindra Old Mutual Life Insurance Ltd.,
   33 1st floor, Community Center,
   New Friends Colony,
   New Delhi-110025.

2. M/s Manmachine Solutions Private Limited,
   143 A, Pocket-M, DDA Janta Flat, Sarita Vihar,
   New Delhi-110020. ... Managements.

AWARD

In the present case, a reference was received from the appropriate Government vide reference No. L-12012/05/2020-IR(B-I)) dated 16.06.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

"Whether the claim of the Union, India Steel and Metal Workers Union, regarding termination of services of workman Shri Deep Chand Sharma S/o Sh. Jitender Dutt Sharma w.e.f 06.03.2017 by the management of M/s Kotak Mahindra Life Insurance Corporation Limited and the management of Man Machine Solutions Private Limited and their contractor M/s is correct ? If so, what relief the workman is entitled to ?"

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Date: 5th August, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2022

का.आ. 1107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 नई दिल्ली के पंचाट (संदर्भ संख्या 52/2011) को प्रकाशित करती है।

[सं. एल- 12025/01/2022-आई आर (बी-1)-09]

ए. के. यादव, अवर सचिव

New Delhi, the 2nd November, 2022

S.O. 1107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court –II New Delhi as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2022– IR(B-1)-09]

A. K.YADAV, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE No. 52/2011
Date of Passing Award- 18.10.2022

Between:
Shri Rajendra Singh
S/o Late Shri Ratan Singh,
R/o House No. C-5/57B, Keshav Puram
New Delhi-110035. ...Workman

Versus

State Bank of India
Through
Regional Manager (Operations)
Delhi Zonal Office, Region 3,
11, Sansad Marg, New Delhi-110001. ...Management

Appearances:-

Shri Sunil Kumar (A/R) : For the Claimant

Ms. Kittu Bajaj (A/R) : For the Management

AWARD

This order deals with the grievance of the claimant with regard to the punishment imposed on him in the domestic inquiry which he describes as unreasonably disproportionate to the charge leveled against him.

In order to deal with the dispute and controversy, it is necessary to set out the relevant facts as per the claim statement in detail.

The claimant was initially appointed as a messenger in the management Bank and in the year 2005 he was promoted to the post of Senior Assistant. At the relevant time i.e in the year 2006 he was working as a Senior Assistant in the management Bank, Branch at Pratap Nagar. On 8/12 2006, he was placed under suspension for the allegation of misappropriation of funds from the accounts of the customers on contemplation of a domestic inquiry and was forbidden from entering the Branch until further orders. On 12/11/2007 the memorandum of charge framed was served on him. Altogether 5 charges were framed out of which four were relating to un authorized debit of fund from customer's account and credit of the same to other accounts. The other charge was with regard to obtaining a loan by the claimant from another Bank without permission of his employer Bank. The claimant submitted his explanation to the charge and participated in the inquiry. At the end of the inquiry, the EO found charge no 1,4 and 5 proved and charge no 2and 3 partly proved. The report of the EO suggesting removal from service was accepted by the disciplinary authority, who, though called upon the claimant for a personal hearing, did not accept the submissions and the grounds supporting his innocence. On the contrary, he accepted the recommendation of the EO and passed the order directing for removal of the claimant from service with the superannuation benefits. Being aggrieved he preferred a departmental appeal, which was decided against him he then raised the Industrial Dispute challenging the fairness of the inquiry as well as the proportionality of the punishment. On completion of the pleadings issues were framed and issue no 2 was taken up for consideration as a preliminary issue as the same was about the just and fairness of the inquiry conducted. Both parties adduced their oral and documentary evidence and on consideration of the same this Tribunal by order dated 14/12/2021 decided that preliminary issue against the claimant holding that the inquiry was conducted fairly following the principles of natural justice. Hence both the parties were called upon to advance their argument on the proportionality of the punishment.

The claimant raised objection to the order on the ground that the Tribunal though comes to a conclusion that the inquiry was conducted fairly, has been bestowed with the power of examining the evidence adduced during the domestic inquiry and find out if the charges leveled against the delinquent employee were proved and at the same time give a finding on the proportionality of the punishment. To support his argument reliance has been placed in the judgments of the Hon'ble SC in the case of **General Secretary, South Indian Cashew Factory Workers' Union vs. The MD Kerala State Cashew Development Corporation (2006)LLR 657, SC** and in the case of **Usha Breco Mazdoor Sangh vs. Management of Usha Breco Ltd. 2008(118)FLR400 SC.** Citing the said judgments he argued that even if the inquiry is found to be fair, that would be only a finding certifying that all possible opportunities were afforded to the delinquent employee to set up a defence. But that would not mean that the inquiry officer and the disciplinary authority had arrived at a legal and proper finding. It is the Industrial Tribunal only, who by exercising power u/s 11 A of the ID Act can look into and analyse the evidence and examine if the charges have been proved. Once it is held that the charges against the employee are proved it will examine the proportionality of the punishment. He further submitted that the evidence adduced by the Bank were inadequate for proving the charge , but the inquiry officer and the disciplinary authority in a pre occupied mind held the charges proved and imposed the punishment dismissal from service, which is harsh and disproportionate to the charge.

In her reply argument, the learned AR for the management Bank submitted that the Industrial adjudicator when comes to a conclusion that the domestic inquiry was conducted fairly, it is seized of it's power for examining if the charges were proved or not as if it is a court of appeal against the order of the disciplinary authority. Relying on the judgment of the Hon'ble SC in the case of **B C Chaturvedi vs. Union of India AIR**

1996 SC 484 and in the case of **UPSRTC vs. Nanhe Lal Kushwaha (2009) 8 SCC 772**, she submitted that an Industrial Adjudicator may interfere with a quantum of punishment awarded by the employer in exercise of the power under section 11A of the ID Act, but ordinarily, the discretion exercised by the employer should not be interfered with or the evidence recorded during the inquiry be re appreciated.

The argument advanced by the AR for both the parties has made it expedient to examine if the labour court or Industrial Tribunal is empowered to re appreciate the evidence recorded during the domestic inquiry and find out if the charge stands proved or disproved. A plain reading of the provision of sec 11A of the Act leads to the conclusion that the Tribunal while dealing with a dispute relating to the discharge or dismissal of a workman is empowered to examine the justification of the action taken and in appropriate cases is empowered to set aside the said order and direct reinstatement. For the purpose in exercise of the power given u/s 11A the Tribunal shall rely on the materials on record and shall not take any fresh evidence in relation to the matter. Thus, the mandate of the provision of law u/s 11A of the Act authorizes the Tribunal to analyse and appreciate the evidence adduced during the domestic inquiry in order to come to a conclusion on the justification of the action taken.

In the case of **General Secretary, South Indian Cashew Factory Workers' Union vs. The MD Kerala State Cashew Development Corporation (2006)LLR 657, SC** relied upon by the claimant the Hon'ble SC have clearly held that sec11A gives ample power to the labour court or Tribunal to reappraise the evidence adduced in the inquiry and examine the justification of the action of the employer and this power is limited to the cases of dismissal or discharge as mentioned in sec 11A of the Act only. The word 'materials on record' mentioned in the proviso to sec 11A refers to the evidence recorded during the inquiry. Hence it is concluded that the Industrial Tribunal is empowered to re appreciate the evidence recorded during the inquiry to arrive at a decision on the justification of the action taken and proportionality of the punishment awarded.

Now coming to the plea of the claimant challenging the order of dismissal, the plea taken is that out of the five charges framed four were relating to unauthorized debit of money from the account of the customers and credit of the same to un intended accounts. The fifth charge is about availing a loan from another financial organization without permission and knowledge of the employer. That charge has no nexus with the former four charges.

The first charges as seen from the inquiry record speaks that the claimant had unauthorizedly debited Rs 20000/- from the account of M/S Surgical Equipments Co on 15.09.2006 and credited to the account of one Kishari Lal. The second charge is about unauthorized debit of Rs 5000/- from the account of Jaswant Nursery and credit of the same to the account of the canteen boy of the Bank named Dharambir. Similarly the third charge was about wrong feeding of the cheque of one Sh. Badrul Hudain to the account of Jaswant Nursery and later transferring Rs 5000/- from the account of Jaswant Nursery to the account of the canteen boy Dharambir. The fourth charge was about wrong feeding of a cheque deposited for collection by one R K Batra in account no 10137009301, which the claimant deposited in to his own account bearing no 1013678356.

The inquiry proceeding filed and proved by the management shows that during the inquiry the canteen boy Dharmbir and the then Accountant R.L. Tuteja were examined on behalf of the Bank. Whereas the canteen boy resiled from his earlier statement saying that being pressurized by the bank officials he had earlier stated about his wrongful nexus with the claimant in misappropriating the money, the accountant Mr. Tuteja had stated that the claimant as soon as detected the wrong posting and debit had requested him to rectify the mistake. No better evidence was adduced by the management Bank to negate the said statement of the accountant and the canteen boy. On the other hand as seen from the inquiry proceeding the claimant had examined himself and one Dharambir Kharbanda, the proprietor of M/S Surgical Equipments who admitted to have made a telephone call requesting the debit .the management made no effort of examining the person named Kishori lal to establish as to how the said credit to his account had caused wrongful gain to the claimant. The plea of the claimant during the inquiry that he apprised the Branch Manager about the wrong posting with a request to correct the same was simple reveals that only brushed aside by the inquiry officer holding that the same is not within the purview of the inquiry. That being the defence plea of the claimant facing the inquiry, the branch manager should have been called as a witness which was omitted without any convincing reason. The evidence adduced during the inquiry with regard to charge no 2 shows that on 16/08/2006, an amount was debited from the account of Jaswant Nursery and credited to the account of the canteen boy Dharambir, who on the same day withdrew the amount. In respect of this charge the letter of M/S Jaswant Nursery and letter of the canteen boy marked as Ext 16 and Ext 18 respectively are relevant. The representative of Jaswant Nursery stated that he had instructed the debit by giving a debit form. The canteen boy has stated that he was unaware of the credit to his account and being instructed by the claimant he withdrew the amount and handed over to the claimant. In this regard the statement of the claimant given during the inquiry is relevant in which he stated that the debit and credit were made for a bonafide mistake and was not even detected by the passing officers. As soon as he came to know about the same had apprised the Branch Manager with a request for correction. The Branch Manager was not examined during the inquiry there by giving a chance to the claimant of cross examining him. So far as charge no 4 is concerned

the evidence shows that the amount was wrongly posted in the account of the claimant but the same was reversed on 18.01.2006. The inquiry officer found charge no 1,4 and 5 proved and charge no 2&3 partly proved.

On behalf of the claimant argument was advanced that the plea of the claimant about deficiency in computer operation was not considered at all to adjudge his innocence. On the contrary the harshest punishment was imposed. The stand of the claimant that he has studied up to class 8 only and initially appointed as a messenger and got promotion by virtue of his seniority and pursuant to the bi partite settlement has not been disputed by the respondent Bank.

Being aggrieved the claimant though preferred departmental appeal the same was decided against him. Having no other departmental remedy available, he approached this Tribunal. Whereas the learned AR for the Management, supported the order imposing punishment as proper the claimant has described the same as extremely harsh.

This tribunal in view of the arguments advanced has to give a finding on the justification and proportionality of the punishment imposed on the claimant. In the case of **Muriadih Colliery VS Bihar Coalliery Kamgar Union (2005) 3 SCC331,** The Hon'ble SC have held:-

> "it is well-established principle in law that in a given circumstance, it is open for the Industrial Tribunal acting u/s 11-A of the I D Act 1947 to interfere with the punishment awarded in the domestic inquiry for good and valid reasons. If the tribunal decides to interfere with such punishment awarded in domestic inquiry, it should bear in mind the principle of proportionality between the gravity of the offence and stringency of the punishment."

Whether a misconduct is severe or otherwise depends on the facts of each particular case. In a case where the charge is about misappropriation of public money or breach of Trust, no doubt the same is serious in nature and distinguishable from the charge of demeanor or in subordination as in this case. But here is a case where the Bank though has alleged about the willful misconduct of the claimant has not succeeded in proving the same as against the stand of the claimant that the mistakes occurred due to deficiency in knowledge of computer operation. The action of the claimant in bringing the mistake to the knowledge of the manager who never appeared as a witness proves his bonafides. More over there is absolutely no evidence to believe that the alleged misconduct had caused any wrongful gain to the claimant or financial loss to the Bank. It is also the lone incident when the misconduct was charged against the claimant.

In the case of **Regional Manager U.P.S R TC, Etawah & others Vs. Hotilal and another, 2003(3) SCC 605, referred in the later case of U.P.SRTC Vs. Nanhelal Kushwaha (2009) 8 SCC, 772,** the Hon'ble Apex Court have held that "The court or Tribunal while dealing with the quantum of punishment has to record reason as to why it is felt that the punishment inflicted was not commensurate with the proved charge. A mere statement that the punishment is not proportionate would not suffice. It is not only the amount involved, but the mental set up, the type of the duty performed and similar relevant circumstances, which go into the decision making process are to be considered while deciding the proportionality of the punishment awarded. If the charged employee holds a position of trust where Honesty and Integrity are in built requirements of functioning, it would not be proper to deal with the matter leniently."

But as stated in the preceding paragraph the allegation against the claimant was of un authorized debit and credit of money from customers' account. The admitted evidence is that before initiation of domestic inquiry and placing him under suspension in contemplation of the inquiry, the amount unauthorizedly debited and credited were refunded and adjusted leaving no scope for wrong full loss of the Bank or wrongful gain by the claimant.

The learned counsel for the management Bank relied upon the judgment of the Hon'ble SC in the case of **M/S. Firestone Tyre and Rubber Co of India vs. The Management And Others** to argue that the discretion vested in the Tribunal u/s 11-A should be judiciously exercised. The crux of his argument is that the punishment imposed on the claimant is appropriate to the charge and the Tribunal should not interfere.

But in the case of **ML Singla vs. Punjab National Bank, AIR 2018 SC 4668,** the Hon'ble SC while dealing with the legislative intension behind incorporation of sec 11A to the Act by way of amendment have held that even if the issue relating to the fairness of the inquiry is decided in favor of the employer, even then the Tribunal has to consider, if the punishment commensurates the charge.

In this case the evidence available on record reveals that the alleged occurrence is the lone incident for which the claimant was proceeded to. It is also not disputed that the claimant lacks proficiency in computer operation and in the present time all the activities in the Bank are being taken up using computer and the chances of mistake by a person without proficiency is possible. More importantly the alleged act has not caused any financial loss to the Bank. In such a situation the imposition of punishment of removal from service with superannuation benefits appears disproportionate to the charge.

Hence in the circumstances, it is felt proper to interfere and modify the punishment awarded to a lesser punishment in exercise of the power conferred u/s 11A of the ID Act. Hence, ordered.

ORDER

The claim petition be and the same is answered in favour of the claimant. For the finding rendered in the preceding paragraphs, it is held that imposition of the punishment of removal from service with superannuation benefits is illegal and liable to be set aside. The management is directed to reinstate the claimant in service notionally with effect from the date of removal from service with 50% of last drawn salary per month for the intervening period and on such reinstatement his two annual increments shall be stopped with cumulative effect as a mode of punishment. If the claimant has in the meantime attained the age of superannuation, his pension and other service benefits shall be allowed as per his entitlement. The management is directed to carry out the order within two months from the date of publication of the award and pay the arrear salary and other consequential benefits within a period of one month from the date of reinstatement failing which the accrued amount shall carry interest at the rate of 9% per annum from the date of accrual and till the actual payment is made. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.
18th October, 2022

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2022

का.आ. 1108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 102/2011) को प्रकाशित करती है।

[सं. एल-12012/40/2011-आई आर (बी-1)]

ए. के. यादव, अवर सचिव

New Delhi, the 2nd November, 2022

S.O. 1108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 102/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/40/2011– IR(B-1)]

A. K.YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/102/2011

Present: P. K. Srivastava, H.J.S..(Retd)

Shri Ramesh Gupta,
S/o Chandrama Gupta,
Ward No.3, Chakmour, Mauganj
District Rewa (M.P.) ... Workman

Versus

The Regional Manager,
State Bank of India
Semariya Chowk, Bus Stand,
Satna (M.P.)

The Branch Manager,
State Bank of India,
Branch Mauganj,
Chakmour, District
Rewa (M.P.) ... Management

AWARD

(Passed on 24-8-2022)

As per letter dated 10/10/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/40/2011-IR(B-1). The dispute under reference relates to:

"***Whether the action of the management of the State Bank of India, Mauganj Branch, Chakmor, Distric-Rewa in terminating the services of Shri Ramesh Gupta w.e.f. 1/9/2010, is legal and justified. To what relief the workman is entitled .***"

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. The case of the workman as stated in his statement of claim is that he was appointed on 1-3-2008 by the then Management of State Bank of India, mauganj Branch Chakmour, District Rewa on daily wages as an office boy. He worked up to 31-8-2010 when his services were terminated under an oral order of the Branch manager without any prior notice or compensation which is in violation of Section 25F of the Industrial Disputes Act,1947. It is further the case of the workman that he worked continuously for 240 days in every year including the year preceding the date of his termination and that the management is interested to appoint someone else in his place which is in violation of Section 25G and 25H of the Industrial Disputes Act,1947. Accordingly, the workman has prayed that setting aside his termination, he be reinstated with back wages and benefits.

3. The case of the management in brief is that the workman was in fact engaged by the Branch for sweeping, working for two to three hours in a day and was paid on daily basis for his work. He was engaged intermittently during March-2008 to September-2009. He never worked continuously for 240 days in any year, hence his termination is not in violation of Section 25F of the Industrial Disputes Act,1947. There is no violation of Section 25G and 25 H of the Act as no other person has been regularly appointed for this work.

4. In evidence the workman filed copy of his petition raising dispute before Assistant Labour Commissioner . Copy of statement of his Account for the period 20-4-2008 to 1-12-2010 which are Exhibit W1 and W2 respectively. He also filed and proved documents Exhibit W3 to W52 to shows that he was engaged during the period not for cleaning but for other jobs also in the Bank requiring him to be present in the Bank for the whole day.

5. The workman has examined himself as a witness and has been cross-examined by management . The management has examined Sumit Singh Thakur, the Branch Manager of the Branch. He never appeared for cross-examination. I have heard arguments of Shri R.B.Tiwari, learned counsel for the workman and Shri Ashish Shroti, learned counsel for Management. Both the sides have filed written argument. I have gone through the written arguments as well as the records.

6. On perusal of record in the light of rival arguments, the following issues comes up for determination:-

(1) Whether the termination of services of the workman Ramesh Kumar Gupta with effect from 1-9-2010 is justified in law and fact.?

(2) Whether the workman is entitled to any relief?

7. **ISSUE NO.1:-**

The respective pleadings of the parties have been detailed earlier. Before entering into merits, following provisions of Industrial Dispute Act,1947 requires to be reproduced and are being reproduced as follows:-

Section 25 B:-

Definition of continuous service.-

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman; (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman,

during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) ninety-five days, in the case of a workman employed below ground in a mine; and (ii) one hundred and twenty days, in any other case.

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice: 1[***] (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2[for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3[or such authority as may be specified by the appropriate Government by notification in the Official Gazette.]

25G. Procedure for retrenchment.- Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

25H. Re-employment of retrenched workmen.- Where any workmen are retrenched and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 2[to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.

8. Points which remain to be seen are firstly whether from evidence on record, the workman has successfully proved his continuous engagement for 240 days or more in the year preceding the date of his termination and secondly whether he was terminated without paying any compensation or issuing any notice. The documents Exhibit W1 to W52 relate to different months within the time frame as mentioned above which show that the workman engaged by the Bank during the period in various activities like carrying dak, collection of cheques and other related work of the Bank for which he was paid. As these documents support his statement on oath that he was appointed as a daily wager and continued in appointment for more than 240 days in every year including the year preceding the date of his termination. As opposed to it the Management witness who has filed his affidavit as his examination in chief never appeared for cross-examination, hence his affidavit cannot be read in evidence in support of case of management.

9. From the above description of evidence, the fact that the workman was in continuous employment of Management as a daily wager for 240 days and more in every year including the date of his termination is held proved. Since the fact that no compensation or notice was given to the workman on his termination, is held in violation of Section 25F of The Industrial Dispute Act,1947, Issue No.1 is answered accordingly.

10. **ISSUE NO.2:-**

In the light of the findings recorded in Issue No.1, the question arises as to what relief the workman is entitled to. Learned Counsel for the workman has referred to judgement of Hon. The Apex Court of Three Judge Bench **Surendra Kumar Verma & Others Vs. Central Government Industrial Tribunal-cum-Labour Court, New Delhi and Another,** reported in 1981 AIR SC 422 and Another Judgement of Hon. High Court of Madhya Pradesh in Writ Petition No.20237/2014, **General Secretary Daily Wages Bank Employees Association Vs. Deputy General Manager, State Bank of India** and held that termination of service in violation of the provisions of the Industrial disputes Act,1947 and is entitled for reinstatement in the light of the law laid down in both the above referred cases.

11. Learned Counsel for the management has submitted that the Bank has definite recruitment procedure. The workman was not recruited against any vacancy. He was not recruited after following the recruitment procedure, rather his case was a back door entry which requires to be discouraged in the light of the Judgement of Hon. The Apex Court in the case of **Secretary State of Karnataka & Others Vs. Uma Devi & Others,** AIR(2006) SC 1806 wherein it has been held that reinstatement of workman will not meet the ends of justice in the case in hand.

12. It is true that the workman was a daily wager. He worked only for two years. He was not appointed against a clear vacancy, following the recruitment procedure, hence keeping in view all the factors arising in the case in hand, a lump sum compensation appears to be proper remedy to the workman. After considering all the facts and circumstances, in the case in hand, a lump sum compensation of Rs.50,000/-(Rupees fifty thousand

only)in lieu of all his claims will meet the ends of justice in my view. The workman is held entitled to get the aforesaid compensation accordingly. **Issue No.2 is answered accordingly.**

13. On the basis of the above discussion, following award is passed:-

A. The action of the management of the State Bank of India, Mauganj Branch, Chakmor, Distric-Rewa in terminating the services of Shri Ramesh Gupta w.e.f. 1/9/2010, is held to be not just and proper.

B. The workman is held entitled to a lump sum compensation of Rs.50,000/- (Rupees fifty thousand only)in lieu of all his claims, within 30 days of publication of Award in official gazette, failing which interest @ 6% p.a. from the date of publication of Award till payment.

C. Parties to bear their own cost.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

Date: 24-8-2022

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2022

का.आ. 1109.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय नंबर, धनबाद के पंचाट (संदर्भ संख्या 118/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/09/2022 को प्राप्त हुआ था।

[सं. एल-20012/421/1990-आई. आर. (सी-I)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 2nd November, 2022

S.O. 1109.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 118/2002) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 29/09/2022.

[No. L-20012/421/1990 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 118/2002

Employer in relation to the management of Bhowra (S) Colliery of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand. Industry:- Coal

Dated 31/08/2022

AWARD

By Order No.L-20012/421/1990-(C-I) dated 05.04.1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub–section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Bhowra (S) Colliery of M/s. BCCL in dismissing the services of Sh. Sudhiram Pasi, Trammer w.e.f. 20.4.94 is justified? If not, what relief the concerned workman is entitled to?"

2. This reference is received on 19/12/2002 by this Tribunal in which the Organizing Secretary, Bihar Pradesh Colliery Mazdoor Congress, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the workman/union did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Thereafter notice of the workman/union returned with endorsement "Office is regularly found closed". Now Case is pending since 19/12/2002 and workman/union as well as management is not appearing before Tribunal. So, it is felt that workman/union has lost its interest in this matter. Hence "No Claim" Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2022

का.आ. 1110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय एर्नाकुलम कोचीन के पंचाट (संदर्भ संख्या 11/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/11/2022 को प्राप्त हुआ था।

[सं. एल-11012/37/2013-आई. आर. (सीएम-I)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 2nd November, 2022

S.O. 1110.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.11/2014) of the Central Government Industrial Tribunal-cum-Labour Ernakulam Cochin as shown in the Annexure, in the industrial dispute between the Management of Air India Ltd and their workmen, received by the Central Government on 01/11/2022.

[No. L-11012/37/2013 –IR (CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer
(Monday the, 30th day of May 2022)

ID No. 11/2014

Workmen/Union : The President
Airlines Casual Workers Union
P.O. Calicut,
Malappuram District
Calicut

By Adv. N.Unnikrishnan

Management : 1. The Station Manager
Air India Limited,
Eroth Centre, Bank Road,
Calicut – 673 001.

2. The General Manager,
Air India Limited,
Airlines House,
Meenamakkam.P.O.
Chennai – 600 027.

By M/s.Thomas & Thomas

This case coming up for final hearing on 02.09.2021 and this Industrial Tribunal-cum-Labour Court on 30.05.2022 passed the following:

AWARD

1. In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry of Labour by its order No.L-11012/37/2013 (IR(CM-1)) dated 24.02.2014 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is;

"Whether the action of the Management of Air India Ltd., in not considering the demands of Airlines Casual Workers Union for increased wages in respect of casual workers in Calicut Airport is justified? To what relief the concerned workmen/Union are entitled to?"

3. The present claim is filed by the Union on behalf of the casual workers employed at the Calicut Airport. Originally management was named as Indian Airlines, later changed its name to National Aviation Company Limited and from 24.11.2010 the name is changed to Air India Ltd. Air India is engaging skilled and unskilled workers attending to the manual works attaching to the airport. The work includes loading and unloading, security, X-ray screening, helper, cleaning of the Air Craft, cargo, catering and engineering help. The casual helpers are engaged as ground support staff after opening of the airport at Calicut. More than 120 casual labourers are working under the Airlines in the Calicut Airport since 1988. Though the Board of Directors had decided to regularise the appointments to permanent nature, the services of these casual employees are not regularised yet. The Union submitted a claim dated 30.07.2010 before the Regional Labour Commissioner (Central) raising an Industrial Dispute. Certain specific demands were raised and one of the demand is for enhancement of rate of daily wages. The conciliation proceedings failed because of the adamant stand taken by the Management. Since the Ministry of Labour failed to take further steps to refer the matter for adjudication, the Union approached the Hon'ble High Court in W.P.(C) No. 22869/2012 – G. The Hon'ble High Court by its judgement dated 20.12.2012 directed the Ministry of Labour to consider the report of the Regional Labour Commissioner and pass appropriate orders. The Government of India vide its letter dated 19.03.2013 rejected the demand for adjudication. In the meanwhile the demand of another Union for regularisation of casual labourers was referred for adjudication vide letter dated 19.03.2013. The dispute in this case relates to increase in wages being paid to the casual labourers. The management is paying only a meagre sum of Rs.310/- as daily wage to the casual labourers. Taking into account the cost of living in Kerala, the Union demanded a raise in their daily wages to Rs.500/-, the rate same as that of the permanent employees of Air India at Calicut. Even though the labourers are designated as Commercial helpers, Engineering helpers, Security helpers, they are doing the same work that is done by the permanent employees. Hence they claim the rate same as that of the permanent employees. In the 2nd conciliation proceedings, the Management took a stand that they have increased the wages from Rs.275/- to Rs.297/- and at present their rate is Rs.329/- from April 2014. The Union filed a rejoinder before the Assistant Labour Commissioner (Central) stating that the increase of Rs.22/- is insufficient due to the considerable price increase and cost of living in Kerala. An agricultural labour in Kerala is getting Rs.500/day. The Assistant Labour Commissioner (Central) sent his failure report dated 28.11.2013. The action of the Management in not giving parity in the rates of wages of the employees who are doing the same work is illegal and discriminatory. The last two years, the price of diesel increased by Rs.13/litre. The bus fares also increased considerably. The cost of food items also increased by around 40%.

4. The Management filed written statement denying the above allegations. The Management company is wholly owned Government of India undertaking. There are 66 airports all over India, wherein casual workers are engaged, depending on operational requirements, subject to availability of work to meet immediate contingency and unforeseen circumstances that arise at the airports. These persons are engaged purely on casual and daily wages for meeting such exigencies. The rate of wages of all the casual workers at various airports are fixed by the company from time to time and revision is effected periodically. In view of the above, the rates of wages applicable to the casual workers at the airport all over India are the same and any modification or revision at one airport will never be a subject matter of industrial dispute before this Tribunal. It can lead to multiplicity of proceeding before various forums. An award passed in this industrial dispute will have an impact at other airports and this also can lead to an anomaly in the wages payable to the casual workers carrying out the same duties elsewhere. Hence the jurisdiction of this Tribunal to adjudicate the matter can be considered and decided as a preliminary issue.

5. These workers have never been recruited by the Management under the Recruitment and Promotion Rules of the Management Company for permanent employment nor they have undergone any process of recruitment conducted by the Management in any of the airports where the management is carrying out its operations. The rates of wages were fixed by the Management in the year 2010 by a notice dated 09.11.2010. The wages so fixed by this notice was revised w.e.f. 01.05.2013 vide notice dated 06.05.2013. The union raised an Industrial Dispute claiming increase in daily wages before the Assistant Labour Commissioner (Central).

During the pendency of the conciliation proceeding the Management revised the wages of casual workers w.e.f. 01.10.2013. The Management again revised the daily wages of casual employees w.e.f. 01.04.2014. The last revision of wages has been effective w.e.f. 01.10.2015 vide notification dated 26.10.2015. The Management has regular and permanent workforce to carry out the activities being done by the workmen. Employment of casual workers is resorted to only to meet the unforeseen circumstances and contingency. In order to provide equal opportunity, casual employment is offered by rotation subject to availability of work. The casual daily rated employees are not required to fulfil the criteria prescribed for regular employees and no selection process as applicable to regular employees are applicable to the casual employees. The selection for recruitment is not rigorous as in the case of permanent employees and service conditions like transfer or being subjected to disciplinary action etc. are not applicable to casual employees. The casual employees engaged by the Management cannot be regarded and compared with the permanent workers. The Management is facing financial constraints and the Government of India is trying to keep the Management company afloat by a Turn Around Plan and Financial Restructuring.

6. The Union filed rejoinder denying the claims of the Management in the written statement. Casual workers are working in the airport for the last 20-23 years. Sri.Rajachandran who was examined before this Tribunal joined the service of the Management in 1994 and is working continuously with technical breaks. The written statement does not disclose the wages being paid to the workers at Calicut Airport or elsewhere. The wage depends on various factors. Cost of living vary from State to State. An average casual worker in Kerala get Rs.650/day. Minimum wages for Government casual employees is fixed at Rs.600/- due to high cost of living as per the Government Order dated 26.02.2016. The Management is bound to give the minimum wages being fixed by the state Government to workers under the provisions of Minimum Wages Act. The report on the working of the Minimum Wages Act 1948 for the year 2013 published by the Government of India, Ministry of Labour and Labour Bureau stated that there exist no uniformity in wage structure across various states/ union territory as some state pay consolidated wages and others report DA as a separate component. The highest minimum wages are being paid by the state of Kerala which stood at Rs.532.50 and the lowest Rs.55/- are being paid in the scheduled employment in 'agriculture' in Pudussery. The Management failed to disclose the basis on which they fixed the minimum wages. In Kerala, the standard of living is high and therefore they are entitled to get Rs.500/- in 2014 with periodical revision and its arrears.

7. Since there was no proper representation for the Management, the Union filed proof Affidavit of WW1 to WW3. However the Management filed IA No.126/2016 to recall the Union witnesses and they were recalled and was allowed to be cross examined by the learned Counsel for the Management. Exhibits W1 to W8 were marked through WW1. The management examined MW1 and marked Exhibits M1 to M11. Management examined MW2 and marked M12 to M14 through the witness.

8. On the basis of the pleadings, the following issues are framed for final decision.

1. Whether the Industrial Dispute is maintainable?
2. Whether the denial of higher wages in respect of casual workers in Calicut airport by the Management is justified?
3. Relief and cost?

Issue No.1 :

9. The Management filed IA No. 65/2017 praying that the issue regarding the maintainability or jurisdiction of this Tribunal may be decided as a preliminary issue. According to the Counsel for the Management there are about 66 airports all over India where the casual workers are engaged depending on the operational requirement subject to availability of the work. The rates of wages for all the workers at various airports are fixed by the Management from time to time and revision is also effected periodically. In view of the above, the rates of wages applicable to casual workers at all airports all over India are the same and any modification or revision at one airport could never be a subject matter of an industrial dispute before this Tribunal. This being an all India issue and casual workers at other airports in different states will have concerns on this issue and therefore this issue has to be adjudicated by a National Tribunal to be constituted under Sec 7B of the Industrial Disputes Act. The adjudication regarding wages payable to casual workers at one airport will lead to multiplicity of proceedings before various courts.

10. The learned Counsel for the Union opposed the IA on the ground that the Management came with such an application at the fag end of the proceedings before this Tribunal. They never took this issue before the Conciliation Officer or before the Union of India. The reference is specifically with regard to the increase in wages of casual workers working in Calicut Airport and it has got no all India implication.

11. There is no uniformity in wages or service conditions of casual employees in any airport. Even in the documents relied on by the Management, different rates of wages are provided in different categories of cities. Under Sec 10 of the Industrial Disputes Act, the appropriate Government decides whether any industrial dispute

exists and the Tribunal which is required to adjudicate the same. As per Sec 33B of the ID Act "The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred". In ***Bennet Coleman and Company Limited Vs State of Punjab***, 1992 (64) FLR 449(P&H), the Hon'ble High Court held that "in case the appropriate Government feels that the conditions postulated in Sec 33B are satisfied, it may examine the desirability of transferring the proceeding to any other Labour Court". Hence it is clear that this Court has no jurisdiction to suo moto transfer the proceedings to National Tribunal. If the Management was serious about adjudication of this industrial dispute by the National Tribunal constituted under Sec 7B of the Act, it ought to have moved the appropriate Government for transfer of the issue to the National Tribunal for adjudication. This Tribunal cannot transfer an industrial dispute referred by the appropriate Government for adjudication to another Tribunal.

Hence the preliminary issue regarding the jurisdiction of the Tribunal is decided against the Management and in favour of the Union.

Issue No.2

12. According to the learned Counsel for the Union, the Management is paying only a meagre sum of Rs.310/- as daily wages to the casual labourers working in Calicut airport. Even though the labourers are designated as commercial helpers, engineering helpers, security helpers etc. they are doing the same work that is being done by the permanent employees. According to the learned Counsel, the casual workers are entitled for the same wages as that of permanent employees. According to the learned Counsel for the Management, the claim of the Union is only for a wage increase to Rs.500/- day for the casual workers and they don't have any claim for parity in wages with the regular employees. He further pointed out that the Management notifies increase in daily wages periodically. He relied on exhibits M1 to M11 to substantiate his claim of increase in wages by the Management periodically. It is seen from Exhibit M1 dated 06.06.2013 that the rates of daily wages were increased to Rs.297/- w.e.f 01.05.2013 and as per Exhibit M2, the rate of daily wages in respect of casual helper, loader, cleaner, handyman was increased to Rs.310/- w.e.f 01.10.2013. As per Exhibit M3 dated 23.04.2014, the rate of daily wages for these category of employees were increased to Rs.329/- . Further, as per Exhibit M4 dated 30.10.2014, the rate of daily wages was increased to Rs.330/-. Vide Exhibit M5, dated 24.04.2005, the rate of daily wages is increased to Rs.340/- w.e.f. 01.04.2015. As per Exhibit M6, the rate of daily wages for these category of employees is increased to Rs.353/- w.e.f. 01.10.2015. As per Exhibit M7, dated.12.04.2016, the rate of daily wages for these categories of employees is increased to Rs.368/- with effect from 01.04.2016. As per Exhibit M8 dated 31.10.2016, the rate of daily wages is increased to Rs.374/- w.e.f. 01.10.2016. As per Exhibit M9, dated 28.02.2017 the rate of daily wages to these categories of employees is increased to Rs.437/- w.e.f. 19.01.2017. As per Exhibit M10, dated 12.06.2017, the rate of daily wages to this category of employees is increased to Rs.448/- w.e.f. 01.04.2017. As per Exhibit M11, dated 16.04.2018 the rate of daily wages to these category of employees is increased to Rs.462/- w.e.f. 01.04.2018. From Exhibit M9 onwards it is seen that there is a classification of area into A, B and C and as per the list of classification, Calicut airport come in area B. Further it is also seen from Exhibit M1 and Exhibit M9 that the revision in rate of daily wages is implemented to bring the daily wages at par with the minimum wages notified by the Central Government. Exhibit M9 specifically refers to the minimum wages notification dated 19.01.2017 issued by the Deputy Director General, Ministry of Labour and Employment [F.No.S 32017/1/2016-WC(MW)] effective from 19.01.2019. Hence it is clear that the marginal revision made by the Management with regard to the rate of daily wages is consequent to the revision of minimum wages in those categories of employees by the Government of India notifications. From Exhibit M9 onwards it is clear that there is a differentiation in the area and the rates of wages notified by the Management. The learned Counsel for the Union pointed out that the service of the casual workers are not of all India nature and the minimum wages for the State Government in the similar category of employees is around 16,500/- rupees. He further pointed out that there is no minimum wages prescribed for the casual workers of the airport. The learned Counsel for the Union relied on Exhibit W7, a Government of Kerala notification dated 26.02.2016 to point out that the minimum wages notified by the Government of Kerala for helpers is Rs.16500/- per month and the daily wages as per the notification was Rs.600/-day. He further pointed out that as per Exhibit W6, the daily rate of wages given by the Management as on February 2016 was only Rs.353/- per day. The learned Counsel for the Union also relied on Exhibit W8, Report on the Working of the Minimum Wages Act 1948, for the year 2013 published by Government of India, Ministry of Labour & Employment, which has gone into the concept of minimum wages, fair wage and living wage elaborately. The Committee also recommended that the Government shall strive to ensure fair wage to the employees rather than the minimum wage. The learned Counsel for the Union also referred to Exhibit W5 report of the Expert Committee on HR issues of merged Air India dated 31.01.2012. The Committee also considered the service conditions of the loaders, members of sanitary staff, contract and casual labourers and held that the condition of service of casuals or contract labourers who are paid on daily wage basis but are

continued in service for more than 5 to 10 years need a sympathetic consideration by the Management. The Committee also recommended that service of such employees deserve to be regularised against existing/future vacancies. The learned Counsel for the Management further pointed out the subsequent developments in the Management company. According to him, due to heavy losses incurred by the Management company, the Government formulated a turnaround plan whereby the ground handling activities performed by the Management company have been handed over to a subsidiary company, Air India Air Transport Services Ltd. (AIATSL). Similarly the engineering activities have been separated and handed over to another subsidiary company called Air India Engineering Services Ltd. (AIESL). On the request of the Management company, 51 casual workers were offered job by AIATSL on fixed term contractual engagement as per the wage structure and other terms and condition of AIATSL. One of the offer letter dated 20.10.2016 is produced as Exhibit M12. Subsequently other casual workers were also offered job in AIATSL vide their letter dated 01.08.2019, copy of one of such letter is produced as Exhibit M13. Five of the casual employees were offered job by AIESL. He further pointed out that the consolidated emoluments as per fixed term contract by AIATSL is Rs.11,040/-. The emoluments were subsequently increased to Rs.13,860/month. In addition to that the employees are also being paid Rs.1,000 to Rs.3,000 w.e.f. 01.11.2018 based on the number of years worked by them in the management company. The notice issued to the employees is produced as Exhibit M14. Subsequently AIATSL has increased the additional payments to Rs.1500/- to Rs.3500/-. The learned Counsel for the Union pointed out that the transfer of the workmen is subject to the final decision by this Tribunal as per the decision of the Hon'ble High Court of Kerala in W.P.(C) No. 39233/2016. According to him, this was further clarified by the Hon'ble High Court in Contempt Case No.1442/2019.

13. According to the learned Counsel for the Union, there are regular employees of the Management who are doing the same work as that of the workman in this industrial dispute. They are entitled for the wages of around Rs.40,000/-. This is confirmed by the MW2 in his deposition that "the Loader may be drawing a salary of Rs.40,000/-, however it depends upon the service of each Loader". The claim of the Union is that the workmen are entitled for parity in wages with the regular loaders of the Management company. However they did not produce any evidence with regard to the nature of recruitment, the responsibility handled by them and the wage structure of the regular loaders of the Management company. The learned Counsel for the Union relied on the decision of the Hon'ble Supreme Court in ***State of Punjab and Others Vs Jagajit Singh And Others***, 2016 KHC 6724, to argue that the principle for equal pay for equal work can be applied in relation to temporary employees and they are entitled to draw wages at the minimum pay scale extended to regular employees holding the same post. The learned Counsel for the Management pointed out that the claim of the Union was only for improved wages and as per the order of reference there is no provision to improve the reference to incorporate the claim of parity of wages. In the above referred case, the Hon'ble Supreme Court has come with specific guidelines regarding parity of wages. The Hon'ble Supreme Court held that the onus of proof of parity in the duties and responsibility of the subject post with the reference post under the principles of equal pay for equal work lies on the person who claims the benefit. In determining equality of functions and responsibility under the principles of equal pay for equal work, it is necessary to keep in mind that the duties of the two post should be of equal sensitivity and also qualitatively similar. For placement in the regular pay scale, the claimant should have been selected on the basis of regular process of recruitment. An employee appointed on a temporary basis cannot be placed in the regular pay scale. If the qualifications for the recruitment to the subject post vis-a-vis the reference post are different, it may be difficult to conclude that the duties and the responsibility of the post are qualitatively similar or comparable. It is seen that the Union failed to adduce any evidence to substantiate the above directions issued by the Hon'ble Supreme Court. The Hon'ble Supreme Court in ***Union Territory Administration, Chandigarh and Others Vs Manju Mathur and Others***, 2011 (1) SLR 609 SC, ***Government of West Bengal Vs Tharun K Roy and others***, 2004 (1) SCC 347 and ***SC Chandra and others Vs State of Jharghand,*** AIR 2007 SC 3021, held that equal pay for equal work is a concept which requires for its applicability, complete and wholesale identity between the group of employees claiming the identical pay scale and other group of employees who have already earned such pay scale. There is no evidence on record to decide whether the casual employees employed at Calicut airport and the Loaders doing the same or similar kind of work are having same kind of responsibility, to apply the equal pay for equal work concept. Therefore the principle for equal pay for equal work cannot be applied to the facts of the present case.

Issue No. 3

14. The learned Counsel for the Union pointed out that even if the workmen are not entitled for equal pay, they are entitled for a fair wage in comparison with the wages and service conditions of similarly placed workers. The learned Counsel for the Management pointed out that the workmen are being paid wages which is revised frequently. Relying on the decision of the Hon'ble High Court of Kerala in ***Kerala Non-banking Financial Companies Welfare Association Vs State of Kerala and Others***, 2019 (5) KHC 934, the learned Counsel for the Union argued that "the Minimum Wages Act confers the power to prescribe the minimum living wage for an employee, taking into consideration a standard family and the attendant expenses which any normal human being, who lives with dignity, has to bear in his life at a given point of time. It cannot take into

account or reckon the various situations that may arise in an employment, which are necessarily in the nature of incidents and service. Every incidents of service whether it be as a benefit, like a higher pay scale on stagnation or a rigour, as in the case of transfer is regulated by the contract of employment varied only by the bilateral settlement". It is seen from Exhibit M1 that a casual helper was entitled to a daily wages of Rs.297/- w.e.f. 1st May 2013 which is increased to Rs.462/- as per Exhibit M11 as on 1st April 2018. The enhancement of wages is given as incremental benefits over a period of 5 years. As already pointed out, MW2 in his evidence categorically stated that a regular Loader who is doing similar work in the Management company will be getting around Rs.40,000/- per month depending upon the length of his service. The learned Counsel for the Union relied on the decision of the Hon'ble Supreme Court of India in ***Hindustan Hosiery Industries Vs FH Lala and Others,*** 1974 AIR (SC) 526, to argue that the minimum wages is something that an establishment is required to pay for engaging the employee in that category. It does not mean that the establishments cannot pay more than the minimum wage or a fair wage to its employees to meet their normal liability. The Hon'ble Supreme Court in the above case pointed out that

> *"To cope with these differences, certain principles on which wages are fixed have been stated from time to time by this Court. Broadly speaking the 1st principle is that there is minimum wage which, in any event, must be paid, irrespective of profits, the financial conditions of the establishments, or the availability of the workman on lower wages. This minimum wage is independent of the kind of industry and applies to all allied industry big or small. It sets the lowest limit below the wages cannot be allowed to sink in all humanity. The 2nd principle is that wages must be fair that is to say, sufficiently high to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to the workman but not at a rate exceeding his wage earning capacity in the class of establishment to which he belongs. A fair wage is thus related to the earning capacity and the workload. It must, however, be realised that 'fair wage' is not 'living wage' by which is meant a wage which is sufficient to provide not only the essentials above mentioned, but a fair measure of frugal comfort with an ability to provide for old age and evil days. Fair wage lies between the minimum wage which must be paid in any event and the living wage which is the goal.*

The Hon'ble Supreme Court of India in ***Express Newspaper Private Limited and Another Vs Union Of India and Others***, AIR 1958 SC 578 elaborately considered the concept of minimum wage, fair wage and living wage and held that a minimum wage must provide for the subsistence of clarity and for preservation of the efficiency of work. In ***Greaves Cotton Company and Others Vs Workman***, AIR 1964 SC 689 and ***Unichem Laboratories Ltd. Vs The Workman***, AIR 1972 SC 2332 the Hon'ble Supreme Court held that one of the principles that can be adopted in fixing wages is that the Tribunal should take into account the wage scale prevailing in comparable concerns. The learned Counsel for the Union pointed out that the marginal revision in daily wages is done by the Management on the basis of the revision of minimum wages notified by the Ministry of Labour, Government of India, as is clear from Exhibit M1 and M9, already discussed. In all notifications issued by the Ministry of Labour, Government of India, there is a stipulation that wherever the minimum wages notified by the State Government is higher, the same shall be paid by the Central Public Sector Undertakings. In the Ministry of Labour and Employment notification S.O.1285(E)dated 20.05.2009, it is specifically stated at Para 6 that "where in any area, the minimum rates of wages fixed by this notification are lower than the minimum rates of wages fixed by the State Government for employees in employment in aforesaid employments in relation to which the State Government is the appropriate Government, the rates of wages fixed by the State Government shall in respect to these areas, be deemed to be the minimum rates of wages payable under this notification". This stipulation is available in all subsequent notifications and also guidelines issued by Government of India. It is true that for the casual workers employed in airports, there is no minimum wage fixed by the state Government. However minimum daily wage paid by the state Government for comparable jobs can be adopted for the purpose of fixing the rate of daily wages for the casual employees working in the airports. As per Exhibit W7, GO(P) 28/2016/FIN dated 26.02.2016 issued by the Government of Kerala, the minimum daily wage fixed for similar category of employees is Rs.600/-. It is therefore appropriate that the workmen involved in this industrial dispute shall be paid at the rate of daily wage of Rs.500/- as claimed by the Union w.e.f. February 2014 to 31.03.2016 and they are entitled for a daily rate of wage of Rs.600/- from 01.04.2016 onwards. If the daily wage that is being paid by the Management to these workmen are above the above said rates, the workmen will be entitled to receive the higher wages.

15. Hence an award is passed holding that the casual workers working in Calicut Airport is entitled for a rate of daily wages of Rs.500/- from February 2014 to 31.03.2016 and Rs.600/- from 01.04.2016 onwards. If the workman is getting higher wages, they will be entitled to receive the higher wages.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personnel Assistant, transcribed and passed by me on this 30th day of May 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witnesses for Workmen/Union :-

WW1 : Rajachandran.K, S/o Gangadharan Nair, Casual Labour, Calicut Airport dated 26.08.2014 and 24.06.2016

WW2 : Jayaprakasan, S/o Ramachandran Kaloth Chandraprakash House, Thirichilangadi, Farook College.P.O.,Kozhikode District – 673 632 dated 26.08.2014 and 24.06.2016

WW3 : Sundaran.K., S/o Kelu, residing at Kavungalthodi House, Ozhukoore. P.O., Mongam (Via), Malappuram, Pin – 673 642 dated 26.08.2014 and 24.06.2016

Witness for Management

MW1 : V.Ramanathan, S/o R Venkatasubramanian, Velachery, Chennai, Saidapet

MW2 : Raza Ali Khan, S/o. Shri Mohamed Baktiar Ali Khan, C/o Air India Limited, Kozhikode

Exhibits for the Workman/Union:-

W1 : Letter No.SR/Ed/RTI/2457 dated 19.08.2014 received under right to information application showing the pay scale of assistants helpers Indian Airlines as on April 2014.

W2 : Letter No.SR/Ed/RTI/2455 dated 19.08.2014 received under right to information application showing the cost of the company for a helper.

W3 : Letter No. SR/Ed/RTI/2458 dated 19.08.2014 received under right to information application showing the Dearness Allowance of Assistant.

W4 : Letter No.SR/Ed/RTI/2456 dated 19.08.2014 received under right to information application showing the daily wages paid to casual helper.

W5 : Report of the Expert Committee dated 31.01.2012 showing the consideration of the Committee at Page-19 about the conditions of the casual, contract labourers who are paid on daily wages.

W6 : An Extract copy of Air India Limited Southern Region (Excluding Hyderabad) Details of casual labourer wages for the month of February, 2016.

W7 : A true copy of the minimum wages for the Government casual employees in Kerala issued by the Finance (Expenditure C Department), G.O (P) No.28/2016/Fin dated 26.02.2016

W8 : A true copy of the report on the working of the Minimum Wages Act, 1948 for the year 2013 published by Labour Bureau, Chandigarh for Government of India, dated 6th January 2015.

Exhibits for the Management

M1 Notification dated 06.06.2013 revising the wages.

M2 Notification dated 06.01.2014 revising the wages.

M3 Notification dated 23.04.2014 revising the wages.

M4 Notification dated 30.10.2014 revising the wages.

M5 Notification dated 24.04.2015 revising the wages.

M6 Notification dated 26.10.2015 revising the wages.

M7 Notification dated 12.04.2016 revising the wages.

M8 Notification dated 31.10.2016 revising the wages.

M9 Notification dated 28.02.2017 fixing the wages with the classification of Area as per the Government of India gazette notification

M10 Notification dated 12.06.2017 revising the wages.

M11 Notification dated 16.04.2018 revising the wages.

M12 Copy of the offer letter issued by AIATSL to one of the employees concerned dated 20.10.2016.

M13 Copy of the offer letter issued by AIATSL to one of the employees concerned dated 01.08.2019.

M14 Copy of the notice dated 23.10.2018 issued by the management company

नई दिल्ली, 2 नवम्बर, 2022

का.आ. 1111.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजका और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण–सह–श्रम न्यायालय एर्नाकुलम कोचीन के पंचाट (संदर्भ संख्या 22/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/11/2022 को प्राप्त हुआ था।

[सं. एल-11012/38/2013-आई. आर. (सीएम-I)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 2nd November, 2022

S.O. 1111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2014) of the Central Government Industrial Tribunal-cum-Labour Ernakulam Cochin as shown in the Annexure, in the industrial dispute between the Management of Air India Ltd and their workmen, received by the Central Government on 01/11/2022.

[No. L- 11012/38/2013 – IR (CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.
(Monday the, 30th day of May 2022)

ID No. 22/2014

Workmen/Union : The General Secretary
Air India National Aviation Workers
Association, INTUC Office,
P.O.Calicut Airport,
Malappuram
By Adv. C.Anilkumar

Management : 1. The General Manager,
Air India Limited,
Airlines House,
Meenamakkam.P.O.
Chennai – 600 027.

2. The Station Manager
Air India Limited,
Eroth Centre, Bank Road,
Calicut – 673 001.
By M/s.Thomas & Thomas

This case coming up for final hearing on 02.09.2021 and this Industrial Tribunal-cum-Labour Court on 30.05.2022 passed the following:

AWARD

1. In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry of Labour by its order No.L-11012/38/2013 IR(CM-1) dated 26.03.2014 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is;

"Whether the action of the Management of Air India, in not increasing the wages of the Casual Labourers in Calicut Airport as demanded by the Union is justified? To what relief the concerned workmen/Union is entitled to?"

3. The present claim is filed by the Union on behalf of the casual workers employed at the Calicut Airport. Originally management was named as Indian Airlines. From 24.11.2010 the name is changed to Air India Ltd. Air India is engaging skilled and unskilled workers attending to the manual works attaching to the airport. The work includes loading and unloading, security, X-ray screening, helper, cleaning of the Air Craft,

cargo, catering and engineering help. The casual helpers are engaged as ground support staff after opening of the airport at Calicut. More than 120 casual labourers are working under the Airlines in the Calicut Airport since 1988. Though the Board of Directors had decided to regularise appointment of the casual workers to permanent nature, the services of these casual employees are not regularised yet. The dispute in this case relates to increase in wages being paid to the casual labourers. The management was paying only a meagre sum of Rs.275/- per day as daily wage to the casual labourers till May 2013. From 01.05.2013 the same is increased to Rs.297/-. Taking into account the cost of living in Kerala, the Union demanded a raise in their daily wages to Rs.500/-, the rate same as that of the permanent employees of Air India at Calicut. Even though the labourers are designated as Commercial helpers, Engineering helpers, Security helpers, they are doing the same work that is done by the permanent employees. Hence they claim the rate same as that of the permanent employers. The action of the Management in not giving parity in the rates of wages of the employees who are doing the same work is illegal and discriminatory.

4. The Management filed written statement denying the above allegations. The Management company is wholly owned Government of India undertaking. There are 66 airports all over India, wherein casual workers are engaged depending on operational requirements subject to availability of work to meet immediate contingency and unforeseen circumstances that arise at the airports. These are persons engaged purely on casual and daily wages for meeting such exigencies. The rate of wages of all the casual workers at various airports are fixed by the company from time to time and revision is effected periodically. In view of the above, the rates of wages applicable to the casual workers at the airport all over India are the same and any modification or revision at one airport will never be a subject matter of industrial dispute before this Tribunal. It can lead to multiplicity of proceeding before various forums. An award passed in this industrial dispute will have an impact at other airports and this also can lead to an anomaly in the wages payable to the casual workers carrying out the same duties elsewhere. Hence the jurisdiction of this Tribunal to adjudicate the matter can be considered and decided as a preliminary issue.

5. These workers have never been recruited by the Management under the Recruitment and Promotion Rules of the Management Company for permanent employment nor they have undergone any process of recruitment conducted by the Management in any of the airports where the Management is carrying out its operations. The rates of wages were fixed by the Management in the year 2010 by a notice dated 09.11.2010. The wages so fixed by this notice was revised w.e.f. 01.05.2013 vide notice dated 06.05.2013. The union raised an Industrial Dispute claiming increase in daily wages before the Assistant Labour Commissioner (Central). During the pendency of the conciliation proceeding the Management revised the wages of casual workers w.e.f. 01.10.2013. The Management again revised the daily wages of casual employees w.e.f. 01.04.2014. The last revision of wages has been effective w.e.f. 01.10.2015 vide notification dated 26.10.2015. The Management has regular and permanent workforce to carry out the activities being done by the workmen. Employment of casual workers is resorted to only to meet the unforeseen circumstances and contingency. In order to provide equal opportunity, casual employment is offered by rotation subject to availability of work. The casual daily rated employees are not required to fulfil the criteria prescribed for regular employees and no selection process as applicable to regular employees are applicable to the casual employees. The selection for recruitment is not rigorous as in the case of permanent employees and service conditions like transfer or being subjected to disciplinary action etc. are not applicable to casual employees. The casual employees engaged by the Management cannot be regarded and compared with the permanent workers. The Management is facing financial constraints and the Government of India is trying to keep the Management company afloat by a Turn around Plan and Financial Restructuring.

6. The Union filed rejoinder denying the claim of the management in the written statement. Casual workers are working in the airport for the last 20-23 years. The work done by the members of the Union are perennial in nature and wages are directly paid by the Management. The wages paid to casual worker in Kerala cannot be equated with that of a casual worker working in another part of the country. The wage depends on various factors. Cost of Living vary from State to State. An average casual worker in Kerala get Rs.650/day. Minimum wages for Government casual employees is fixed at Rs.600/- due to high cost of living as per Government Order dated 26.02.2016. The Management is bound to increase the pay of the workman so as to make it equivalent to the pay of a permanent employee doing similar work. The Management has sufficient financial capacity to hear the additional burden of wage increase to the workmen.

7. The Union examined WW1 and marked Exhibits W1 to W3. The Management examined MW1 and marked Exhibits M1 to M11. Management examined MW2 and marked M12 to M14 through the witness.

8. The Union filed IA No. 97/2021 pleading that the evidence in ID No. 11/2014 may be adopted in this case also and heard together, which was allowed by this Tribunal.

9. On the basis of the pleadings, the following issues are framed for final decision.

1. Whether the Industrial Dispute is maintainable ?

2. Whether the denial of higher wages in respect of casual workers in Calicut airport by the Management is justified?

3. Relief and cost ?

Issue No.1 :

10. The Management filed IA No. 65/2017 praying that the issue regarding the maintainability or jurisdiction of this Tribunal may be decided as a preliminary issue. According to the Counsel for the Management there are about 66 airports all over India where the casual workers are engaged depending on the operational requirement subject to availability of the work. The rates of wages for all the workers at various airports are fixed by the Management from time to time and revision is also effected periodically. In view of the above, the rates of wages applicable to casual workers at all airports all over India are the same and any modification or revision at one airport could never be a subject matter of an industrial dispute before this Tribunal. This being an all India issue and casual workers at other airports in different states will have concerns on this issue and therefore this issue has to be adjudicated by a National Tribunal to be constituted under Sec 7B of the Industrial Disputes Act. The adjudication regarding wages payable to casual workers at one airport will lead to multiplicity of proceedings before various courts.

11. The learned Counsel for the Union opposed the IA on the ground that the Management came with such an application at the fag end of the proceedings before this Tribunal. They never took this issue before the conciliation Officer or before the Union of India. The reference is specifically with regard to the increase in wages of casual workers working in Calicut Airport and it has got no all India implication.

12. There is no uniformity in wages or service conditions of casual employees in any airport. Even in the documents relied on by the Management, different rates of wages are provided in different categories of cities. Under Sec 10 of the Industrial Disputes Act, the appropriate Government decides whether any industrial dispute exists and the Tribunal which is required to adjudicate the same. As per Sec 33B of the ID Act "The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred". In ***Bennet Coleman and Company Limited Vs State of Punjab***, 1992 (64) FLR 449(P&H), the Hon'ble High Court held that "in case the appropriate Government feels that the conditions postulated in Sec 33B are satisfied, it may examine the desirability of transferring the proceeding to any other Labour Court". Hence it is clear that this Court has no jurisdiction to suo moto transfer the proceedings to National Tribunal. If the Management was serious about adjudication of this industrial dispute by the National Tribunal constituted under Sec 7B of the Act, it ought to have moved the appropriate Government for transfer of the issue to the National Tribunal for adjudication. This Tribunal cannot transfer an industrial dispute referred by the appropriate Government for adjudication to another Tribunal.

Hence the preliminary issue regarding the jurisdiction of the Tribunal is decided against the Management and in favour of the Union.

Issue No.2

13. According to the learned Counsel for the Union, the management is paying only a meagre sum of Rs.310/- as daily wages to the casual labourers working in Calicut airport. Even though the labourers are designated as commercial helpers, engineering helpers, security helpers etc. they are doing the same work that is being done by the permanent employees. According to the learned Counsel, the casual workers are entitled for the same wages as that of permanent employees. According to the learned Counsel for the Management, the claim of the union is only for a wage increase to Rs.500/- day for the casual workers and they don't have any claim for parity in wages with the regular employees. He further pointed out that the Management notifies increase in daily wages periodically. He relied on exhibits M1 to M11 to substantiate his claim of increase in wages by the Management periodically. It is seen from Exhibit M1 dated 06.06.2013 that the rates of daily wages were increased to Rs.297/- w.e.f 01.05.2013 and as per Exhibit M2, the rate of daily wages in respect of casual helper, loader, cleaner, handyman was increased to Rs.310/- w.e.f 01.10.2013. As per Exhibit M3 dated 23.04.2014, the rate of daily wages for these category of employees were increased to Rs.329/- . Further, as per Exhibit M4 dated 30.10.2014, the rate of daily wages was increased to Rs.330/-. Vide Exhibit M5, dated 24.04.2005, the rate of daily wages is increased to Rs.340/- with effect from 01.04.2015. As per Exhibit M6, the rate of daily wages for these category of employees is increased to Rs.353/- with effect from 01.10.2015. As per Exhibit M7, dated.12.04.2016, the rate of daily wages for these categories of employees is increased to Rs.368/- with effect from 01.04.2016. As per Exhibit M8 dated 31.10.2016, the rate of daily wages is increased to Rs.374/- with effect from 01.10.2016. As per Exhibit M9, dated 28.02.2017 the rate of daily wages to these categories of employees is increased to Rs.437/- with effect from 19.01.2017. As per Exhibit M10, dated

12.06.2017, the rate of daily wages to this category of employees is increased to Rs.448/- with effect from 01.04.2017. As per Exhibit M11, dated 16.04.2018 the rate of daily wages to these category of employees is increased to Rs.462/- with effect from 01.04.2018. From Exhibit M9 onwards it is seen that there is a classification of area into A, B and C and as per the list of classification, Calicut airport come in area B. Further it is also seen from Exhibit M1 and Exhibit M9 that the revision in rate of daily wages is implemented to bring the daily wages at par with the minimum wages notified by the Central Government. Exhibit M9 specifically refers to the minimum wages notification dated 19.01.2017 issued by the Deputy Director General, Ministry of Labour and Employment [F.No.S 32017/1/2016-WC(MW)] effective from 19.01.2019. Hence it is clear that the marginal revision made by the Management with regard to the rate of daily wages is consequent to the revision of minimum wages in those categories of employees by the Government of India notifications. From Exhibit M9 onwards it is clear that there is a differentiation in the area and the rates of wages notified by the Management. The learned Counsel for the Union pointed out that the service of the casual workers are not of all India nature and the minimum wages for the State Government in the similar category of employees is around 16,500/- rupees. He further pointed out that there is no minimum wages prescribed for the casual workers of the airport. The learned Counsel for the Union relied on Exhibit W7, a Government of Kerala notification dated 26.02.2016 to point out that the minimum wages notified by the Government of Kerala for helpers is Rs.16500/- per month and the daily wages as per the notification was Rs.600/-day. He further pointed out that as per Exhibit W6, the daily rate of wages given by the management as on February 2016 was only Rs.353/- per day. The learned Counsel for the Union also relied on the Report on the Working of the Minimum Wages Act 1948, for the year 2013 published by Government of India, Ministry of Labour & Employment, which has gone into the concept of minimum wages, fair wage and living wage elaborately. The Committee also recommended that the Government shall strive to ensure fair wage to the employees rather than the minimum wage. The learned Counsel for the Union also referred to the Report of the Expert Committee on HR issues of merged Air India dated 31.01.2012. The Committee also considered the service conditions of the loaders, members of sanitary staff, contract and casual labourers and held that the condition of service of casuals or contract labourers who are paid on daily wage basis but are continued in service for more than 5 to 10 years need a sympathetic consideration by the Management. The Committee also recommended that service of such employees deserve to be regularised against existing/future vacancies. The learned Counsel for the Management further pointed out the subsequent developments in the Management company. According to him, due to heavy losses incurred by the Management company, the Government formulated a turnaround plan whereby the ground handling activities performed by the Management company have been handed over to a subsidiary company, Air India Air Transport Services Ltd. (AIATSL). Similarly the engineering activities have been separated and handed over to another subsidiary company called Air India Engineering Services Ltd. (AIESL). On the request of the Management company, 51 casual workers were offered job by AIATSL on fixed term contractual engagement as per the wage structure and other terms and condition of AIATSL. One of the offer letter dated 20.10.2016 is produced as Exhibit M12. Subsequently other casual workers were also offered job in AIATSL vide their letter dated 01.08.2019, copy of one of such letter is produced as Exhibit M13. Five of the casual employees were offered job by AIESL. He further pointed out that the consolidated emoluments as per fixed term contract by AIATSL is Rs.11,040/-. The emoluments were subsequently increased to Rs.13,860/month. In addition to that the employees are also being paid Rs.1,000 to Rs.3,000 w.e.f. 01.11.2018 based on the number of years worked by them in the management company. The notice issued to the employees is produced as Exhibit M14. Subsequently AIATSL has increased the additional payments to Rs.1500/- to Rs.3500/-. The learned Counsel for the Union pointed out that the transfer of the workmen is subject to the final decision by this Tribunal as per the decision of the Hon'ble High Court of Kerala in W.P.(C) No. 39233/2016. According to him, this was further clarified by the Hon'ble High Court in Contempt Case No.1442/2019. He further pointed out that the additional payments of Rs.1500 – Rs.3500 as claimed by the Management is not being paid to the workmen.

14. According to the learned Counsel for the Union, there are regular employees of the management who are doing the same work as that of the workmen in this industrial dispute. They are entitled for the wages of around Rs.40,000/-. This is confirmed by the MW2 in his deposition that "the Loader may be drawing a salary of Rs.40,000/-, however it depends upon the service of each Loader". The claim of the Union is that the workmen are entitled for parity in wages with the regular Loaders of the Management company. However they did not produce any evidence with regard to the nature of recruitment, the responsibility handled by them and the wage structure of the regular Loaders of the Management company. The learned Counsel for the Union relied on the decision of the Hon'ble Supreme Court in ***State of Punjab and Others Vs Jagajit Singh And Others***, 2016 KHC 6724, to argue that the principle for equal pay for equal work can be applied in relation to temporary employees and they are entitled to draw wages at the minimum pay scale extended to regular employees holding the same post. The learned Counsel for the Management pointed out that the claim of the Union was only for improved wages and as per the order of reference there is no provision to improve the reference to incorporate the claim of parity of wages. In the above referred case, the Hon'ble Supreme Court has come with specific guidelines regarding parity of wages. The Hon'ble Supreme Court held that the onus of

proof of parity in the duties and responsibility of the subject post with the reference post under the principles of equal pay for equal work lies on the person who claims the benefit. In determining equality of functions and responsibility under the principles of equal pay for equal work, it is necessary to keep in mind that the duties of the two post should be of equal sensitivity and also qualitatively similar. For placement in the regular pay scale, the claimant should have been selected on the basis of regular process of recruitment. An employee appointed on a temporary basis cannot be placed in the regular pay scale. If the qualifications for the recruitment to the subject post vis-a-vis the reference post are different, it may be difficult to conclude that the duties and the responsibility of the post are qualitatively similar or comparable. It is seen that the Union failed to adduce any evidence to substantiate the above directions issued by the Hon'ble Supreme Court. The Hon'ble Supreme Court in ***Union Territory Administration, Chandigarh and Others Vs Manju Mathur and Others***, 2011 (1) SLR 609 SC, ***Government of West Bengal Vs Tharun K Roy and others***, 2004 (1) SCC 347 and ***SC Chandra and others Vs State of Jharghand,*** AIR 2007 SC 3021, held that equal pay for equal work is a concept which requires for its applicability, complete and wholesale identity between the group of employees claiming the identical pay scale and other group of employees who have already earned such pay scale. There is no evidence on record to decide whether the casual employees employed at Calicut airport and the Loaders doing the same or similar kind of work are having same kind of responsibility to apply the equal pay for equal work concept. Therefore the principle for equal pay for equal work cannot be applied to the facts of the present case.

Issue No. 3

15. The learned Counsel for the Union pointed out that even if the workmen are not entitled for equal pay, they are entitled for a fair wage in comparison with the wages and service conditions of similarly placed workers. The learned Counsel for the Management pointed out that the workmen are being paid wages which is revised frequently. Relying on the decision of the Hon'ble High Court of Kerala in ***Kerala Non-banking Financial Companies Welfare Association Vs State of Kerala and Others***, 2019 (5) KHC 934, the learned Counsel for the Union argued that "the Minimum Wages Act confers the power to prescribe the minimum living wage for an employee, taking into consideration a standard family and the attendant expenses which any normal human being, who lives with dignity, has to bear in his life at a given point of time. It cannot take into account or reckon the various situations that may arise in an employment, which are necessarily in the nature of incidents and service. Every incidents of service whether it be as a benefit, like a higher pay scale on stagnation or a rigour, as in the case of transfer is regulated by the contract of employment varied only by the bilateral settlement". It is seen from Exhibit M1 that a casual helper was entitled to a daily wages of Rs.297/- w.e.f. 1st May 2013 which is increased to Rs.462/- as per Exhibit M11 as on 1st April 2018. The enhancement of wages is given as incremental benefits over a period of 5 years. As already pointed out, MW2 in his evidence categorically stated that a regular Loader who is doing similar work in the Management company will be getting around Rs.40,000/- per month depending upon the length of his service. The learned Counsel for the Union relied on the decision of the Hon'ble Supreme Court of India in ***Hindustan Hosiery Industries Vs FH Lala and Others,*** 1974 AIR (SC) 526, to argue that the minimum wages is something that an establishment is required to pay for engaging the employee in that category. It does not mean that the establishments cannot pay more than the minimum wage or a fair wage to its employees to meet their normal liability. The Hon'ble Supreme Court in the above case pointed out that

> *"To cope with these differences certain principles on which wages are fixed have been stated from time to time by this Court. Broadly speaking the 1st principle is that there is minimum wage which, in any event, must be paid, irrespective of profits, the financial conditions of the establishments, or the availability of the workman on lower wages. This minimum wage is independent of the kind of industry and applies to all allied industry big or small. It sets the lowest limit below the wages cannot be allowed to sink in all humanity. The 2nd principle is that wages must be fair that is to say, sufficiently high to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to the workman but not at a rate exceeding his wage earning capacity in the class of establishment to which he belongs. A fair wage is thus related to the earning capacity and the workload. It must, however, be realised that 'fair wage' is not 'living wage' by which is meant a wage which is sufficient to provide not only the essentials above mentioned, but a fair measure of frugal comfort with an ability to provide for old age and evil days. Fair wage lies between the minimum wage which must be paid in any event and the living wage which is the goal.*

The Hon'ble Supreme Court of India in ***Express Newspaper Private Limited and Another Vs Union Of India and Others***, AIR 1958 SC 578 elaborately considered the concept of minimum wage, fair wage and living wage and held that a minimum wage must provide for the subsistence of clarity and for preservation of the efficiency of work. In ***Greaves Cotton Company and Others Vs Workman***, AIR 1964 SC 689 and ***Unichem Laboratories Ltd. Vs The Workman***, AIR 1972 SC 2332 the Hon'ble Supreme Court held that one of the principles that can be adopted in fixing wages is that the Tribunal should take into account the wage scale prevailing in comparable concerns. The learned Counsel for the Union pointed out that the marginal revision in daily wages is done by the Management on the basis of the revision of minimum wages notified by the Ministry

of Labour, Government of India, as is clear from Exhibit M1 and M9, already discussed. In all notifications issued by the Ministry of Labour, Government of India, there is a stipulation that wherever the minimum wages notified by the State Government is higher, the same shall be paid by the Central Public Sector Undertakings. In the Ministry of Labour and Employment notification S.O.1285(E)dated 20.05.2009, it is specifically stated at Para 6 that "where in any area, the minimum rates of wages fixed by this notification are lower than the minimum rates of wages fixed by the State Government for employees in employment in aforesaid employments in relation to which the State Government is the appropriate Government, the rates of wages fixed by the State Government shall in respect to these areas, be deemed to be the minimum rates of wages payable under this notification". This stipulation is available in all subsequent notifications and also guidelines issued by Government of India. It is true that for the casual workers employed in airports, there is no minimum wage fixed by the state Government. However minimum daily wage paid by the state Government for comparable jobs can be adopted for the purpose of fixing the rate of daily wages for the casual employees working in the airports. As per GO(P) 28/2016/FIN dated 26.02.2016 issued by Government of Kerala the minimum daily wage fixed for similar category of employees is Rs.600/-. It is therefore appropriate that the workmen involved in this industrial dispute shall be paid at the rate of daily wage of Rs.500/- as claimed by the Union w.e.f. February 2014 to 31.03.2016 and they are entitled for a daily rate of wage of Rs.600/- from 01.04.2016 onwards. If the daily wage that is being paid by the Management to these workmen are above the above said rates, the workmen will be entitled to receive the higher wages.

16. Hence an award is passed holding that the casual workers working in Calicut Airport is entitled for a rate of daily wages of Rs.500/- from February 2014 to 31.03.2016 and Rs.600/- from 01.04.2016 onwards. If the workmen are getting higher wages, they will be entitled to receive the higher wages.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personnel Assistant, transcribed and passed by me on this the 30th day of May 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witnesses for Workmen/Union :-

WW1 : Shyju.P, Casual Helper, Air India, Calicut Airport, Puliyullathil House, Makkada.P.O., Kozhikode – 673 611

Witness for Management

MW1 : V. Ramanathan, S/o Mr. R.Venkatasubramanian, C/o Air India Limited, Personnel Department, Airlines House, Meenambakkam, Chennai – 600 027

MW2 : Raza Ali Khan, Station Manager, Air India Limited, Eroth Centre, 5/2521, Bank Road, Kozhikode – 673 001

Exhibits for the Workman/Union:-

W1: Copy of the letter dated 19/08/2014 obtained from management under Right to Information Act, 2005

W2: Copy of letter dated 19/08/2014 issued by the management under Right to Information Act, 2005

W3: Copy of letter dated 19/08/2014 obtained from management under Right to Information Act, 2005

Exhibits for the Management

M1 : Notification dated 06.06.2013 revising the wages.

M2 : Notification dated 06.01.2014 revising the wages.

M3 : Notification dated 23.04.2014 revising the wages.

M4 : Notification dated 30.10.2014 revising the wages.

M5 : Notification dated 24.04.2015 revising the wages.

M6 : Notification dated 26.10.2015 revising the wages.

M7 : Notification dated 12.04.2016 revising the wages.

M8 : Notification dated 31.10.2016 revising the wages.

M9 : Notification dated 28.02.2017, fixing the wages with the classification of Area as per the Government of India gazette notification.

M10 : Notification dated 12.06.2017 revising the wages.

M11 : Notification dated 16.04.2018 revising the wages.

M12 : Copy of the offer letter issued by AIATSL to one of the employees concerned dated 20.10.2016.

M13 : Copy of the offer letter issued by AIATSL to one of the employees concerned dated 01.08.2019.

M14 : Copy of the Notice dated 23.10.2018 issued by the Management company.

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स अवीवा लाइफ इन्शुरन्स कंपनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती अनुपमा सुमेश, कोजहिकोडे, (केरला) बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम पंचाट (संदर्भ संख्या 22/2013) को प्रकाशित करती है।

[सं. एल-17012/38/2012-आईआर (एम)]

आशीष कुमार यादव, अवर सचिव

New Delhi, the 3rd November, 2022

S.O. 1112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2013) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Aviva Life Insurance Company Ltd. and Smt. Anupama Sumesh, Kozhidode (Kerala).

[No. L-17012/38/2012-IR(M)]

ASHISH KUMAR YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, ERNAKULAM

Present: Shri. V . Vijaya Kumar, B. Sc, LLM, Presiding Officer.

(Tuesday the 26th day of April 2022, 6 Vaisakha 1944)

ID No.22/2013

Workman : Smt.Anupama Sumesh
3/2336, Karat Road
Nadakkavu Post
Kozhikode –
By Adv.P. S. Anishad

Management : 1. The Chairman and Managing Director-HR
M/s. Aviva Life Insurance Company Ltd
Aviva Tower, Sector Road
DLF Phase V, Sector-43
Gurgaon – 122003

2. The Manager-HR Operations
M/s. Aviva Life Insurance Company Ltd
No.144/IV Floor
Subharam Complex
Bangalore
By Adv.Saji Issac K. J.

This case coming up for final hearing on 27.04.2021 and 22.11.2021 this Tribunal-cum-Labour Court on 26.04.22 passed the following:

AWARD

1. In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry ofLabourby its order No. L-17012/38/2012-IR(M) dated 03.04.2013 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is;

" Whether the action of the Management of Aviva Life Insurance Company Ltd on terminating the services of Smt.Anupama Sumesh vide letter dt.25.11.2010, is legal and justified ? What relief the workman is entitled to?''

3. According to the claim statement filed by the worker she was employed as an Executive Assistant in M/s.Aviva Life Insurance Company. She was employed since 27.08.2008. She was employed continuously without break in service discharging the duties as an Executive Assistant. The Management has awarded the worker with performance bonus in recognition of her contribution. The Management terminated the service of the worker w.e.f. 25.11.2010. The termination of the worker's service amounts to retrenchment. The Management resorted to the retrenchment without providing due notice or notice pay or compensation. The retrenchment of the worker is illegal. The persons employed much later than the worker and junior to the worker are still retained in the service of the worker in violation of the ID Act. Since retrenchment, the worker is without any job and without any income. At her age it is very difficult to search for another job.

4. The Management filed written statement denying the above allegations. The claim of the worker is not maintainable as the worker is not a workman as defined in the ID Act. The worker is employed in the position of Executive Assistant by letter dt.19.08.2008. She was employed in the managerial/administrative and supervisory capacity and responsible for effectively managing the branch office of the Management. The worker was drawing a salary of Rs.2,00,000/- per annum which was subsequently enhanced. Since the worker was drawing a salary exceeding the limit provided U/s 2(s) and was performing the duties of a managerial nature, she is not entitled to raise an industrial dispute. The worker was appointed through a letter of appointment detailing the terms and conditions of appointment. The worker accepted the terms and conditions. The predominant duty of the worker was effectively managing the branch office. She was responsible to ensure timely appointments and meeting, confirmation to/from all participants and fixing up of time and venue, to provide secretarial support to the function, to organize conferences and seminars both at offsite and local locations, to co-ordinate to all branches on various sales and functional activities, to liase with vendors on designated activities within the time lines and provide logistic support to the department. According to the " notice of termination" in the letter of appointment, "the company or you may terminate this appointment by giving two months advance notice in writing or salary in due". The Management had paid the worker's salary in lieu of notice of termination. The present matter is squarely covered by the parameters of law of contract. After termination of the service of the worker, her full and final settlement was processed by the company and an amount of Rs.18,068/- was paid to the worker.

5. The worker filed a rejoinder denying the allegations in the written statement filed by the Management. The worker was appointed as Executive Assistant at Calicut Branch of the Respondent on 27.08.2008. As per the offer letter, it was specified that the "You will be responsible for effectively managing the office management of the branch. Details of your job assignment, key responsibilities and key result areas will be handed over to you on joining. You may from time to time be required to carry out duties not necessarily to associate with your job title". Though the worker was appointed as an Executive Assistant, she was assigned with pure clerical work as there was no clerical assistance in the branch. The nature of work of Executive Assistant is that, the Sales Manager meets or calls the customers from the leads of Advisors and fixes the business. The details of policy and the amount were provided to the worker. The worker enters the above said matters into the computer and reports to Branch Manager. The Branch Manager conducts the meetings and informs to Advisors through Sales Managers. Executive Assistant has no duty in those meetings. The Executive Assistant collected Commission and gift of the Advisors, if any, and distributed the same to the concerned parties. Though the name of the post is modernized for keeping the status of the company, the real work done is that of clerical nature. The worker neither has any administrative powers or supervisory powers to manage and regulate the office management nor was directed to conduct meetings, seminars and fix time and venue of meeting and seminars. As per the clause of termination, the company or the worker may terminate the appointment by giving two months advance notice in writing or salary in lieu. The Management violated the terms of termination. Though the Management terminated the service of the worker w.e.f. 25.11.2010, she was allowed to work till 03.02.2011. Thereafter no termination letter was issued by the Management. To deny the benefits of Industrial Disputes Act, the new generation companies change the name of the post as Executive Assistant instead of Clerk.

6. The Management filed I.A.no.25/2014 pleading to decide the maintainability as a preliminary issue. This Tribunal vide order dt.18.03.2019 decided that the maintainability issue will be decided as a preliminary issue at the time of deciding the industrial dispute. The worker filed I.A. no.163/2016 seeking to direct the Management to produce the original Attendance Register of the worker for 2010 and 2011. This Tribunal vide order dt.18.03.2019 allowed the IA and directed the Management to produce the original Attendance Register and the same was produced by the Management. The worker filed another I.A. no.107/2016 to summon Mr.Binu Chandran, Territory Manager, M/s.Kotak Mahindra Life Insurance, M.G. Road, West Fort, Thrissur as a witness. The IA was allowed vide order dt.04.04.2017. Though the witnesses were summoned, the summons was returned by the postal department with an endorsement "left without any instructions".

7. After completion of pleadings, the worker examined herself as WW1 and marked Exbt.W1 to W4. Exbt.W4 was marked subject to objection. The Management produced Exbt.M1 and M2 and the same was marked by consent of parties.

8. The issues to be decided are ;

1. Whether the industrial dispute is maintainable ?
2. Whether the termination of services of the worker from the Management company is legal ?
3. Relief and cost ?

9. <u>Issue No.1</u>

As already pointed out, the Management filed IA no.25/2014 seeking to decide the question of maintainability as a preliminary issue. According to the learned Counsel for the Management, the worker was employed as Executive Assistant vide letter dt.19.08.2008 and she was employed in the managerial/administrative and supervisory capacity and responsible for effectively managing the branch office. The worker was drawing a salary of Rs.2,00,000/- per annum which was subsequently enhanced. The learned Counsel for the worker pointed out that though the designation of the worker was that of Executive Assistant, it was only a glorified post of clerk and she was doing only the clerical job of the branch as no separate clerical assistance was given to her. According to him, the nature of work assigned to the worker was basically communicating the decisions taken by the Branch Manager and the Sales Manager. The Sales Manager meets or calls the customers and fixes the business. The details of call and the amount will be provided to the worker and she enters the said details in the computer and reports the same to the Branch Manager. The worker also collects Commission and gifts of the Advisors if any, and distribute it to the concerned parties. According the learned Counsel for the worker, she was never entrusted with the responsibility to ensure timely appointments and meetings, get confirmation from participants and fix time and venue for the meetings. According to the Counsel for the Management the worker co-ordinates with all branches on various sales and functional activities so as to facilitate effective execution. Exbt.W1 dt.19.08.2008 is the offer of appointment given by the Management to the worker. In the appointment order, it is stated that the worker " will be responsible for effectively managing the office management of the branch. Details of job assignments, key responsibilities and key result areas will be handed over to you on joining. You may from time to time be required to carry out duties not necessarily associated with your job title ". According to the learned Counsel for the worker, the details of job assignment as per Exbt.W1 was never provided to her. The worker during her cross xamination as WW1 stated that " As per the appointment order, I was given the responsibility of office management, it also clarified that the nature of duties will be provided separately. However the same was not provided to me at any point of time". She further stated that the work done by her was that of assisting the Sales Executive and to enter the files brought by the Advisors in the computer and also assist the Sales Manager. She further clarified that she never did any job attached to the office management. When the worker specifically pleaded that she was only doing clerical jobs with the Management and also categorically stated that the nature of duties that was supposed to be assigned to her through separate orders were never assigned, the burden of proving the nature of work done by the worker shift to the Management as there is no dispute regarding the employer-employee relationship in this case. The learned Counsel for the Management also contended that she was drawing an annual compensation package of Rs.2,00,000/- when she joined the Management which was admitted by the worker in her deposition.

As per Sec 2(s) of Industrial Disputes Act,

"Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person –

(i) ....
(ii) ...
(iii) ...
(iv) ..."

The definition of workman in Sec 2(s) falls in 3 parts. The 1st part of definition given the statutory meaning of workman. The second part is designed to include something more in what the term primarily denotes. The 3rd part specifically excludes the categories of persons specified in clause 1-4 of the subsection. In **Rallis India Ltd Vs State of West Bengal and others,** 1983 2 LLJ (Cal) the Hon'ble High Court of Calcutta held that once the relationship of employer and employee is established, then its for the employer to show that the employee concerned falls in one of the excluded categories and as such is not a workman. In this case there is no dispute regarding the employer-employee relationship and the worker had specifically pleaded that her nature of employment was that of clerical nature and there was no supervisory and managerial functions handled by her. Further, she in the witness box also explained the nature of duties performed by her. It was the responsibility of the Management to adduce evidence to prove that the worker was performing the duties of administrative, managerial and supervisory nature. The question whether a person is employed in a supervisory capacity or on clerical work depends upon whether the main and principle duties carried out by him/her are those of supervisory character or of a nature carried out by a clerk. The learned Counsel for the Management also pleaded that the worker was drawing an annual package of Rs.2,00,00/- when she was appointed by the Management which is beyond the statutory limit of Rs. 10,000/-. In **Re: Shree Madhav Mlls Ltd**, 1966 (2) LLJ 827 (BOM) the Hon'ble High Court of Bombay held that if a person is employed to do any work which is not in managerial or administrative capacity, he will not be excluded from the definition of workman even if he draws more than the statutory limit. The Hon'ble Supreme Court in **Syndicate Bank Vs workman,** 1966 (2) LLJ 194 SC held that before a person who is doing supervisory work and whose wages do not exceed the statutory limit can be taken out the category of workmen, it must be shown that he is employed in fact and in substance mainly in a managerial or administrative capacity. The sum and substance of the above decisions is that the nature of duties performed by the person decides whether a particular person will come within the definition of workman U/s 2(s) of the Industrial Disputes Act and neither the salary/wages paid nor the designation will decide the question. The learned Counsel for the Management relied on the decision of the Hon'ble Supreme Court of India in **Chauharya Tripathi and others Vs LIC of India and another** 2015 KHC 3119 and **HR Adyanthaya and others Vs Sandoz India Ltd and others**, 1994 KHC 866 to argue that the worker will not come within the definition of the workman in the ID Act. He also relied on the decision of this Tribunal in ID no.15/2012, in the case of **Jerin T. Jose Vs The CEO and Managing Director of M/s.Aviva Life Insurance Company and another**. In **Chauharya Tripathi**'s case (Supra) the Hon'ble Supreme Court considered whether the Development Officers working in LIC of India will come within the definition of workman and in **HR Adyanthaya and others** (Supra) the Hon'ble Supreme Court considered whether a medical representative will come within the definition of workman and held that considering the nature of duties by these categories of employees, they will not come within the definition of workman. In ID no.15/2012, this Tribunal consider whether the Sales Manager working in the Management company and drawing a salary of Rs.3,50,000/- will come within definition of workman. In all these cases the nature of employment was considered in detail by the Hon'ble Supreme Court and this Tribunal and came to the conclusion that they will not come within the definition of workman U/s 2(s) of the ID Act. In this case as already pointed out the worker has substantially proved that she was doing the work of a glorified clerk and was not doing any work in the nature of managerial, administrative or supervisory nature. The Management did not take any effort to adduce evidence to establish the nature of work carried out by her. In the above circumstances, it can only concluded that the worker will come within the definition of workman U/s 2(s) of the ID Act and therefore the industrial dispute is maintainable.

Hence the issue is decided in favour of the worker and against the Management.

10. <u>Issue No.2</u>

According to the learned Counsel for the worker, she had rendered continuous service with the Management from 08/2008 till 03/2011. From Exbt.W1 appointment order issued to the worker, it is clear that she was employed on a monthly wages. The Management has no case that the worker did not work continuously for 240 days prior to her termination. Exbt.W1 and Exbt.M1 Attendance Register would establish the fact that the worker was on a monthly salary appointed as per Exbt.W1 appointment order and continued to work till March 2011. As per Exbt.W3 the termination order dt.25.11.2010, the services of the worker was terminated w.e.f. 25.11.2010. The Exbt.M1 clearly shows that the worker attended the office and signed the Attendance Register till March 2011. The worker also, in her oral evidence, confirmed the fact that she worked continuously with the Management from 25.11.2010 to 03.02.2011. The fact that the worker worked continuously for more than 240 days with the Management immediately one year prior to her termination is not disputed by the Management. The Management has no case that they followed the mandatory requirements U/s 25F of the Industrial Disputes Act. According to the learned Counsel for the Management the terminal benefits as per

the terms of appointment in Exbt.W1 has already been released to the worker. As per Exbt.W1 "**Notice of Termination** : The Company or you may terminate this appointment by giving two months advance notice in writing or salary in lieu". The learned Counsel pointed out that the terminal benefits were settled to the worker as per Exbt.M2. The learned Counsel for the worker denied the same. Even assuming that the Management paid two months salary as per notice of termination in the Exbt.W1 appointment order, it will not satisfy the legal requirement U/s 25F of the ID Act.

Hence the termination of the worker without following the statutory requirement U/s 25F of the Act is illegal and abnitio void.

11. Issue no.3

It is already found that the worker will come within the definition of workman U/s 2(s) of the ID Act. It is also found that the termination of the worker without following the mandatory requirement U/s 25F of the ID Act is illegal. The Management has no case that the worker was profitably employed after her termination from the Management company. The Hon'ble Supreme Court of India in **Jasmar Singh Vs State of Haryana and others**, 2015 (4) SCC 458 relying on its earlier decision in **Deepali Gundu Surwase Vs Kranti Junior Adyapak Mahavidyalaya,** 2013 10 SCC 324 held that when the termination is found to be illegal, the worker is entitled for reinstatement with back wages. The Hon'ble Supreme Court held that

> " Para 22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the employee concerned but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from relatives and other aquittance to avoid starvation. These sufferings continued till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi judicial body or Court that the action taken by the employer is ultravires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer was to deny back wages to the employee, or contesting his entitlement to get consequential benefits then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. The denial of back wages to an employee who has suffered due to an illegal act of the employer would amount to indirectly punishing the employee concerned and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments".

In the above case, the Hon'ble Supreme Court was considering the case of a workman working as a daily paid worker in the office of Sub Divisional Officer (Karnal) for more than 240 days.

12. In this case as already found there is no dispute regarding the fact that the worker had continuous service of 240 days one year prior to her termination. Hence her termination without following the mandatory provisions of U/s 25F of ID Act will make the termination abinitio void and illegal. Therefore the worker is entitled for reinstatement into the service of the Management company with back wages. Taking into account the special circumstance of this case I am inclined to hold that the worker is entitled for reinstatement into the service of the Management with 50% of the back wages.

13. Hence an award is passed holding that the action of the Management in terminating the services of Smt.Anupama Sumesh vide letter dt.25.11.2010 is not legal, justified and abinitio void. She is entitled for reinstatement into the service of the Management company with 50% back wages, continuity of service and other consequential benefits.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 26th day of April, 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witness for the Workman:-

WW1 - Smt.Anupama Sumesh, dt.02.05.2016

Witness for the Management:- Nil

Exhibits for the Workman:-

W1 - True copy of the offer letter dt.19.08.2008

W2 - True copy of the recognize letter dt.04.01.2010

W3 - True copy of the Termination letter dt.25.11.2010

W4 - True copy of the Attendance Register of the Management

Exhibits for the Management:-

M1 - Original Attendance Register of the Management

M2 - True copy of full and final Settlement Slip

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मंध्यान मिनरल्स कॉर्पोरेशन, पाकुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 24/2004) को प्रकाशित करती है।

[सं. एल- 29011/61/2003-आईआर (एम)]

आशीष कुमार यादव, अवर सचिव

New Delhi, the 3rd November, 2022

S.O. 1113.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2004) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Mandhyan Minerals Corporation, Pakur and Their Workman.

[No. L- 29011/61/2003-IR(M)]

ASHISH KUMAR YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 24/2004

Employer in relation to the management of M/s. Mandhyan Minerals Corpn., Pakur

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : Sri M. Prasad, Advocate

For the workman. : None

State : Jharkhand. Industry:- Minerals

Dated 31/08 /2022

AWARD

By Order No.L-29011/61/2003 (IR(M)) dated 20.02.2004 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/s. Mandhyan Minerals Corporation, Pakur in terminating the services of Sh. Ekram Sheikh, mistry without complying Section 25F of the ID Act is legal and or justified?"

2. This reference is received on 22/03/2004 by this Tribunal in which the General Secretary, Rashtriya Quarries Khadan Shramik Sangh had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the workwoman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but the workman/union appeared on 04/06/2004 before the Tribunal and thereafter did not appear. Further the management had appeared on certain dates and the notice was issued to workman/union which returned with endorsement "insufficient address". Now the Case is pending since 22/03/2004 and workman/union is not appearing before Tribunal. So, it is felt that workman/union has lost its interest in this matter. Hence "No Claim" Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स हिंदुस्तान कॉपर लिमिटेड, मोसाबनि के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 13/2017) को प्रकाशित करती है।

[सं. एल- 43011/4/2017-आईआर (एम)]

आशीष कुमार यादव, अवर सचिव

New Delhi, the 3rd November, 2022

S.O. 1114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2017) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Hindustan Copper Limited, Mosabani and Their Workman.

[No. L-43011/4/2017-IR(M)]

ASHISH KUMAR YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 13/2017

Employer in relation to the management of M/s. Hindustan Copper Ltd.,Mosabani

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer.

Appearances:

For Employer : Sri D.K. Verma, Advocate.

For workman : Sri Sujit Kr. Shaw, (In Person)

For Union : Sri Ram Sunder Ram, (Representative).

State : Jharkhand. Industry:- Copper

Dated : 28/09/2022

AWARD

By Order No.L-43011/4/2017- (IR(M)) dated 28.06.2017, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the ex-employees of M/s. HCL who were separated under VR scheme due to closure of Mines are entitled for arrears of wages arising out of subsequent pay/wage revision."

2. After receipt of the reference, all the parties were noticed. The concerned workmen (Sujit Kumar Shaw and 413 others) have filed their written statement of claim on 25/08/2017 and the management of M/s. Hindustan Copper Ltd, Mosabani has filed its written statement cum rejoinder on 04/11/2020.

The concerned workmen (Sujit Kumar Shaw and 413 others) have filed rejoinder to the written statement of the management on 21/01/2021.

3. The claim of the concerned workman Sujit Kumar Shaw and 413 (four hundred and thirteen) others as per its written statement is as follows:-

That the Director Personnel (Head Office) had issued a Circular No. HCL/PERS/9/37/260 dated 20/02/1995, in which it has been clearly mentioned that benefit of pay fixation should be given to all VRS employees and subsequently the Office Order of Chief Manager (P) ICC, dated 09/03/1995 was issued. The VRS wage settlement was due from 1997, so the Hindustan Copper Limited had given interim relief to the employees as proof that whenever the pay/wage revision would be done, the employees would get the benefit and the wage/pay revision was done on 19/04/2006. Further the Government of India Ministry of Mines vide letter Ref 10/3/2004-MerIII dated 17th October 2004 gave approval to payment of residual arrears arising out of 1997 Pay Revision for a period from 01/01/1997 for executive and 01/11/1997 for non executive to 31/07/2002. In the meantime Hon'ble Jharkhand High Court vide order passed in W.P.(S) 1405 of 2003 directed the H.C.L. to take decision on the representation of the petitioner in accordance with law with regard to applicability of claim as raised in the present writ petition within a period of 3 months. Further the Kolkata High Court in W.S. No. 6501 (W) of 2011 has been pleased to direct the respondent company to take necessary step for release of arrears arising out of the said pay revision for the period 01/01/1997 to 30/11/1999 which is due to the petitioners with interest at the rate of 8% within eight week for the date of order. The Annual Report (Page 52) published by the Hindustan Copper Limited is self explanatory regarding payment of arrears arising out of pay fixation from 01/01/1997 for executive and 01/11/1997 for non executive. The H.C.L. is a profitable unit and had given cheque of Rs. 83.27 crores, the 20% of net profit to Mr. Dinsha Patel on 20/09/2013 for the financial year 2012-2013.

4. On the other hand the case of the management as per its written statement is as follows:-

That the term of reference in absence of name of workmen concerned is vague and indefinite and not maintainable. The ex-employees of M/s. H.C.L. who were separated under VR Scheme have neither been dismissed nor terminated, so they would not be treated as workmen under the definition given in Sec. 2A & 2(s) of I.D. Act. The Mosaboni Group of Mines comprising Mosaboni including Badia, Pathargora, Kendadih and Surda Mines were closed because of exhaustion of mineable reserve. The VR separated employees were paid the terminal benefits as admissible to them including the statutory dues at the time of separation itself, so they are not entitled to any further payment of arrears arising out of wage revision of 1997 effective from 01/11/1997. The 1997 wage revision which was effective from 01/11/1997 could be implemented only in April 2006 for serving employees after gap of 10 years due to critical financial position of the Company and the same was implemented with approval of the Government of India, Ministry of Mines conveyed vide letter no. 10/3/204-Met-III dated 17/04/2006. There was no direction regarding payment of arrears to VR separated employees. The Letter no. 10/3/2004 Met. III dated 17/10/2008 conveyed the approval of the Govt. Of India for the payment of residual arising out of 1997 pay revision for the period from 01.01.1997/01.11.1997 to 31.07.2002 to the existing employees and to those separated otherwise than on VR in two instalments. The regular employees have not been paid full arrears arising out of 1997 wage revision.

The management by way of rejoinder has stated that Para no.-1 of the written statement of workman is not correct and the statement made in Para no.- 2 to 11 of the written statement of workman are also not correct and not relevant.

5. The sponsoring union by way of rejoinder to the written statement of management has stated that the Mosabani Group of Mines including Rakha Copper Project Mines were closed phase wise with a plea that exhaustion of mineable reserve. The Surda Mines are running after re-opening and Kendadih Mines are also running. The Ministry of Mines have issued guidelines for the benefit of employees which were not followed by the HCL management. The HCL had paid interim relief as pay/wage revision were pending since 01/01/1997 for

executive and 01/11/1997 for non-executive. Interim relief is the part and parcel of long pending pay/wage revision and the workmen had not received the benefit of guide lines of Ministry. The concerned workmen were employees of the management till the clearance of their all dues and they have got right to raise the complaint for their dues which is legal till their life. In the settlement held on 19/04/2006, it is clear that who are on the roll on 01/01/1997 as an executives and 01/11/1997 for non-executives are entitled of the benefits. The Ministry of Mines have never said in their letter mentioned by the management that VR separated employees are not entitled for arrears on wage revision of 1997. The management had given arrears to all employees including VR separated employees for their wage/pay revision on previous occasion.

The sponsoring union has not examined any witness in support if its case.

6. The sponsoring union further proved the following documents in support of its case which are marked as:-

Exhibit W-1- Photo Copy of Circular No. HCL/PERS/9/37/260 Dt. 20/02/1995.

Exhibit W-2- Photo Copy of Office Order of Chief Manager (P) ICC, dated 09/03/1995 regarding Circular No. HCL/PERS/9/37/260 dated 20/02/1995.

Exhibit W-3- Photo Copy of Memorandum of Settlement 2006 of Hindustan Copper Ltd.

Exhibit W-4- Photo Copy of Letter dated 17/10/2008 regarding payment of wage/salary arrears arising out of 1997 Pay Revision.

Exhibit W-5- Photo Copy of Office Memorandum dated 08/12/2000 regarding Voluntary Retirement Scheme/Voluntary Separation Scheme for the Employees of Public Enterprises.

Exhibit W-6- Photo Copy of Annual Report of Hindustan Copper Ltd. 2006-2007.

Exhibit W-7- Photo Copy of Memorandum of Agreement of Hindustan Copper Ltd on 27/03/1980.

Exhibit W-8- Photo Copy of Letter No. L-43024/3/99/IR (Misc.) dt 23/12/1999 regarding application seeking permission of Govt. for closure of Pathargora and Kendadih Mine.

Exhibit W-9- Photo Copy of Letter No. 43024/5/97/IR (Misc.) Dt. 01/10/1997 regarding application seeking permission of Govt. for closure of Mosaboni Mines.

Exhibit W-10- Photo Copy of Letter dated 08/06/2001 of Rana Som, Director (Personnel).

Exhibit W-11- Photo Copy of Memorandum of Settlement 2006 of Hindustan Copper Ltd.

7. The management has neither examined any witness nor has proved any documents in support of its case.

8. The concerned workman namely Sujit Kumar Shaw has submitted before the Tribunal that this is a case of violation of Tripartite agreement between Employer (HCL) with its Employees signed in presence of CLC (C) on 19/04/2006. He has also submitted that the concerned workmen are demanding arrears, privileges and other benefits arising out of the agreement with compound interest and cost. He has submitted that the Govt. of India had introduced VR Scheme from time to time and the employees had taken voluntary retirement under those schemes. He has further argued that at the time of floating of the said schemes, the pay revision was pending, which was brought in force from 1997 after the employees had been voluntary retired and the revision of pay scale was done on the basis of settlement w.e.f. 01/01/1997 for executive and w.e.f. 01/11/1997 for non-executive. He has further submitted that a circular was issued on 20/02/1995 to the effect that those employees who had retired under the Companies Voluntary Retirement Scheme would be entitled to wage revision. as and when the same would be finalised and on 19/04/2006 settlement was arrived at between the employees of HCL and unions with regard to the revision of pay scales of all regular employees borne on the roll of HCL on 01/11/1997. He has further stated that in the wage settlement it has been clearly mentioned that those who are on roll on 01/11/1997 are entitled to the benefits of said settlement. He has also submitted that in Para 7.1 and 8.1 of the memorandum of the settlement it has been clearly mentioned regarding payment of revised wages. He has also argued that the employees who are on rolls on 01/11/1997 cannot be discriminated and denied benefits of settlement because they had subsequently sought voluntary retirement under the various schemes floated after 01/11/1997. He has further argued that Damudar Dutta who was Ex-Sr. Accounts Officer has been granted the benefit of arrears who was similarly placed, so the workmen are also entitled for payment of arrear wages. He has made prayer for passing an award in favour of workmen.

9. On the other hand the learned lawyer of management has submitted that the concerned workmen had taken VRS from the Company of M/s. H.C.L., so they are not employees of the Company. He has also argued that the concerned workmen do not come under the provision of Section 2A and 2(s) of I.D. Act. He has also submitted that the Ministry of Mines vide letter no. 10/3/2004 Met. III dated 17/10/2008 has clearly provided that the payment of residual arrear arising out of 1997 pay revision for the period of 01.01.1997/01.11.1997 to

31.07.2002 is to be made to the existing employees and to those separated otherwise than on VR in two instalments. He has also submitted that the regular employees have not been paid full arrears arising out of 1997 wage revision. He has further submitted that in the meeting of NJCC held on 16/04/2009, the representation of the recognized trade unions unanimously conveyed their consent for forgoing residual 1997 wage arrears arising out of 1997 wage revision for the period on 01/11/1997 to 30/11/1999. He has also argued that the concerned workmen were separated under VR Scheme due to closer of Mines, so they are not entitled for arrear.

10. Now, the only point of determination in this case is whether the concerned workmen are entitled for arrears of wages arising out of subsequent pay/wage revision?

FINDINGS

11. At the outset of discussion it is relevant to mention here that at the time of receiving the schedule of reference, list of workmen was not attached and subsequently the Ministry of Labour and Employment was requested to submit the list of workmen involved in this reference.

After that the Ministry of Labour and Employment had submitted a list of 414 (four hundred fourteen) Ex-Employee of Hindustan Copper Ltd., so the list of Ex-Employees of HCL is part and parcel of schedule.

12. It is required to mention here that all the concerned workman are ex- employees of Hindustan Copper Ltd., Mosabani Group of Mines and they have opted for voluntary retirement on different dates under the scheme of VR announcement by the Govt. of India, Ministry of Mines.

13. In this case neither the sponsoring union nor management has adduced any oral evidence on their behalf.

14. Now, coming to the documentary evidence of concerned workmen it appears that, the Exhibit W-1 is the Circular dated 20/02/1995 which shows that those who have retired under the company's Voluntary Retirement Scheme will be entitled for wage revision/pay revision, the Exhibit W-2 is Circular dated 09/03/1995 which shows that the employees retiring under Company's VR Scheme in addition to pay revision benefits, will also be entitled for VR benefits, the Exhibit W-3 is Memorandum of Settlement of 2006 in which under Para 7.1 it is mentioned that the fixation of pay in the revised scales of pay will be effective from 01/11/197 and actual payment would commence from 01/08/2004 in the revised scales of pay and in Para 8.1 it is mentioned that matter of payment of arrears for the earlier period from 01/11/1997 to 31/07/2004 and modalities of payment thereof will be discussed and decided separately keeping in view the paying capacity of the company in consultation with Administrative Ministry, the Exhibit W-4 is letter dated 17/10/2008 in which it has mentioned that the payment of residual arrears arising out of 1997 pay revision for the period from 01/01/1997 (for Executives)/ 01/11/1997 (for Non-Executives) to 31/07/2002 to the existing employees and to those separated otherwise than on VR in two instalments during the current fiscal year subject to availability of surplus fund, the Exhibit W-5 is an Office Memorandum of Ministry of Heavy Industries & Public Enterprises regarding Voluntary Retirement Scheme/Voluntary Separation Scheme for the employees of Public Enterprises, the Exhibit W-6 is the Annual report of HCL, the Exhibit W-7 is the Memorandum of Agreement on 27/03/1980, the Exhibit W-8 is application seeking permission of the Government for closure of Pathargora and Kendadih Mines (ICC) of M/s. HCL, the Exhibit W-9 is an application dated 01/10/1997 for seeking permission of the Government for closure of Mosaboni Mines, Exhibit W-10 is a letter of Director (Personnel) dated 08/06/2001 and the Exhibit W-11 is the Memorandum of Settlement of 2006 in which it has been categorically mentioned in Para 1.0 under heading Scope and Coverage that the settlement shall cover all the regular workmen borne on the rolls of HCL as on 01/11/1997 subject to the conditions enumerated in Para 7.1 and 8.1 of this Memorandum of Settlement. The Para 7.1 of the settlement says that the fixation in any revised scales of pay will be effective from 01/11/1997 but the fixation will be notional from 01/11/1997 to 31/07/2004 and modalities of payment thereof will be discussed and decided separately keeping in view the paying capacity of the company in consultation with Administrative Ministry.

15. After going through the list of workmen submitted by the Ministry of Labour and Employment it appears that the date of VR of all the concerned workmen are after 01/11/1997, so all the workman mentioned in the list are covered under the settlement of 2006.

16. The management had brought notice to the Tribunal of letter no. 10/3/2004-Met.III, dated 17/10/2008 in which it is mentioned that the payment of residual arrears arising out of 1997 pay revision for the period from 01/01/1997 (for Executives)/1.11.1997 (for Non-Executives) to 31/07/2002 to the existing employees and to those separated otherwise than on VR in two instalments during the current fiscal year subject to availability of surplus fund.

17. Now, **under Para 1.0 under heading Scope & Coverage of Memorandum of Settlement of 2006 (Exhibit W-11)** it has been categorically mentioned that this settlement will cover all the regular workmen borne on the rolls of Hindustan Copper Limited as on 01/11/1997 and the concerned workmen whose names are

mentioned in the list attached with the schedule were on the rolls of service of HCL on 01/11/1997, so they are entitled for revision of wages as per Para 7.1 of the Memorandum of Settlement,

In view of such fact the letter dated 17/10/2008 is in contravention of the Memorandum of Settlement of 2006 arrived between the Employer (HCL) and its employees. Moreover any letter which contravenes the Memorandum of Settlement is not binding on the concerned workmen and management.

18. It is required to mention here that the management had raised objection on the point of maintainability of reference of this case and on that order has been passed that it will be taken into consideration at the time of final hearing of the case.

It is relevant to mention here that the concerned workmen were employee of the Hindustan Copper Ltd. and they had taken voluntary retirement under the scheme of Government of India and they had not been paid their revised pay scale since 01/01/1997 as per Memorandum of Settlement of 2006.

In view of such the reference is maintainable and they were the workmen of the Hindustan Copper Ltd.

19. After considering all the facts and circumstances of the case the Tribunal finds and holds that all the ex-employees of HCL as per list received by the Ministry of Labour and Employment, Government of India (Sujit Kumar Shaw & 413 others) who were separated under VR Scheme due to closure of Mines are entitled for arrears of wages arising out of subsequent pay/wage revision.

This is the Award of this Tribunal.

Dictated and Corrected by me

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन आयल कॉर्पोरेशन लिमिटेड, जमशेदपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद पंचाट (संदर्भ संख्या 02/2003) को प्रकाशित करती है।

[सं. एल- 30012/29/2002-आईआर (एम)]

आशीष कुमार यादव, अवर सचिव

New Delhi, the 3rd November, 2022

S.O. 1115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 02/2003) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited, Jamshedpur and Their Workman.

[No. L-30012/29/2002-IR(M)]

ASHISH KUMAR YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 02/2003

Employer in relation to the management of Indian Oil Corporation Ltd., Jamshedpur

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : Sri N.K. Trivedi, Advocate

For the workman. : None.

State : Jharkhand. Industry:- Petroleum

Dated 31/08 /2022

AWARD

By Order No.L-30012/29/2002 (IR(M)) dated 11.12.2002 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether termination of Shri Ram Naresh Singh by Regal Security Services engaged by Indian Oil Corp. Eastern Region Jamshedpur is justified? If not, to what relief the concerned workmen is entitled?"

2. This reference is received on 01/01/2003 by this Tribunal in which the concerned workman Sri Ram Naresh Singh had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the workwoman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but the workman/union didn't appear before the Tribunal. Further the management had appeared on certain dates but union/workman had failed to appear before the Tribunal and the notice issued to the concerned workman returned with endorsement "No such person in this address". Now the Case is pending since 01/01/2003 and workman/union is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence "No Claim" Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बिरला कॉर्पोरेशन लिमिटेड; मेसर्स एच.आर. कॉन्ट्रैक्टर्स; मेसर्स आर.आर. स्टील फैब्रिकेटर्स; मेसर्स बैसवारा सिक्योरिटी एजेंसी, रायबरेली (यू.पी.) के प्रबंधतंत्र के संबद्ध नियोजकों और श्री सुधीर सिंह, श्री संदीप सोनकर एंड श्री एस.एन. तिवारी, रायबरेली (यू.पी.) बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या 29/2021) को प्रकाशित करती है।

[सं. एल- 29011/4/2021-आईआर (एम)]

आशीष कुमार यादव, अवर सचिव

New Delhi, the 3rd November, 2022

S.O. 1116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. (29/2021) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Birla Corporation Limited; M/s H.R. Contractors; M/s R.R. Steel Fabricators and M/s Baiswara Security Agency, Raebareli (U.P.) and Shri Sudhir Singh, Shri Sandeep Sonkar and Shri S.N. Tiwari, Raebareli (U.P.).

[No. L- 29011/4/2021-IR(M)]

ASHISH KUMAR YADAV, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT : JUSTICE ANIL KUMAR, PRESIDING OFFICER

I.D. No. 29/2021

Ref. No. L-29011/4/2021-IR (M) dated: 12.02.2021

BETWEEN :

1. Shri Sudhir Singh
   Representative of worker of M/s R.R. Steel Fabricators
   Raebareli (UP
2. Shri Sandeep Sonkar
   Representative of workers of M/s H.R. Contractor
   Raebareli (UP)
3. Shri S.N. Tiwari
   Representative of workers of M/s Baiswara Security Agency
   Reebareli (UP)

AND

1. The General Manager
   Birla Corporation Limited
   Raebareli (UP)
2. The Occupier
   Birla Corporation Limited
   Raebareli (UP)
3. M/s H.R. Contractors, C/o
   Birla Corporation Limited
   Raebareli (UP)
4. M/s R.R. Steel Fabricators, C/o
   Birla Corporation Limited
   Raebareli (UP)
5. M/s Baiswara Security Agency, C/o
   Birla Corporation Limited
   Raebareli (UP)

AWARD

By order No. L-29011/4/2021-IR (M) dated: 12.02.2021 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred under Section 36A of the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

"WHETHER THE REPRESENTATION DATED 01.01.2020 MADE BY THE REPRESENTATIVE OF CONTRACT WORKMEN SH. SUDHIR SINGH AND OTHERS REGARDING INTERPRETATION OF SETTLEMENT DATED 11.09.2020 IN TERMS OF ENHANCEMENT OF WAGES W.E.F. 01.08.2020 & PAYMENT OF COMPULSORY HOLIDAYS/NATIONAL HOLIDAYS RULES AND CONDITIONS (3 TIMES IN CASE THE WORK PERFORMED BY THE WORKMEN) AGAINST M/S BIRLA CORPORATION LTD. ARE PROPER & LEGALLY JUSTIFIED? IF SO, AS TO WHAT RELIEF THE CONTRACT WORKMEN ARE ENTITLED TO?"

Accordingly, an industrial dispute No. 29/2021 has been registered on 01.03.2021.

From the perusal of record, the position which emerge out is that the till date the claimant/workman has not filed any statement of claim.

Shri Sharad Kumar Shukla, learned counsel/representative appearing on behalf of the Birla Corporation Limited submits that as a matter of fact and record, workman, Sudhir Singh was an employee of Contractor, M/s R.R. Steel Fabricators, and the contract has already been terminated by efflux of time, so the present reference may be dismissed.

Findings & Conclusion:

After hearing the learned counsel and taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 12.02.2021. So in

view of the said facts, as well as the law laid by the Hon'ble High Court in the case of *V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194* as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of *M s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519;* wherein it has been held as under:

> *"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

27th September 2022

Let two copies of this award be sent to the Ministry for publication.

JUSTICE ANIL KUMAR, Presiding Officer

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसीसी गगल सीमेंट वर्क्स, बिलासपुर (एच.पी.) के प्रबंधतंत्र के संबद्ध नियोजकों और किशोरी लाल पुत्र श्री किरपा राम, बिलासपुर (एच.पी.) बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ पंचाट (संदर्भ संख्या 8/2022) को प्रकाशित करती है।

[सं. जेड-16025/04/2022-आईआर (एम)]

आशीष कुमार यादव, अवर सचिव

New Delhi, the 3rd November, 2022

S.O. 1117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8/2022) of the Central Government Industrial Tribunal/Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ACC Gagal Cement Works, Bilaspur (HP) and Shri Kishori Lal S/o Shri Kirpa Ram, Bilaspur (HP).

[No. Z-16025/04/2022-IR(M)]

ASHISH KUMAR YADAV, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Present: Sh. J.K. Tripathi, Presiding Officer

ID No.8/2022

Registered On:-12.07.2022

Kishori Lal S/o Sh. Kirpa Ram, R/o Village and Post Office Chalaihali, Tehsil Ghumarwin, District Bilaspur, HP-174003. ... Workman

Versus

1. Plant Director, ACC Gagal Cement Works, Barmana, Tehsil-Sadar, District Bilaspur, HP-164013. ... Respondents/Managements

AWARD

Passed On:-19.09.2022

1. The workman Kishori Lal has directly filed this claim petition under Section 2-A of the Industrial Dispute Act 1947(hereinafter called the Act) for his illegal termination by the management.

2. During the pendency of the proceedings before this Tribunal, learned AR of the workman Sh. S.C. Gupta filed an application for withdrawal of the present claim petition as he is not willing to prosecute the case further. Respondent No.1 has no objection if the withdrawal application is allowed.

3. In view of the statement made by the learned AR of the workman, the present claim petition deserves to be dismissed as withdrawn. Accordingly, the instant claim petition registered as ID No.08/2022 stands withdrawn and dismissed. File after completion be consigned in the record room.

4. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

J. K. TRIPATHI, Presiding Officer

नई दिल्ली, 3 नवम्बर, 2022

का.आ. 1118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार श्री एम.एन. देवीप्रसाद, मैनेजिंग पार्टनर, मेसर्स वायनाड मेटल्स, वायनाड के प्रबंधतंत्र के संबद्ध नियोजकों और श्री शाजी एन. के. नचिक्कदन, वायनाड बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम पंचाट (संदर्भ संख्या 31/2017) को प्रकाशित करती है।

[सं. जेड-16025/04/2022-आईआर (एम)]

आशीष कुमार यादव, अवर सचिव

New Delhi, the 3rd November, 2022

S.O. 1118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/2017) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sri. M.N. Deviprasad, Managing Partner M/s Wayanad Metals, Wayanad and Shri shaji N.K. Nechikkadan, Wayanad.

[No. Z-16025/04/2022-IR(M)]

ASHISH KUMAR YADAV, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, ERNAKULAM

Present: Shri. V.Vijaya Kumar, B. Sc, LLM, Presiding Officer.

(Thursday the 6th day of May 2022, 16 Vaisakha 1944)

ID No.31/2017

Workman/Union : Sri.Shaji N. K.
Nechikkadan House
Puzhamudi Post
Vellaramkunnu
Wayanad - 673121
Adv. Lakshmi B. Shenoy

Management : Sri. M.N. Deviprasad
Managing Partner
M/s.Wayanad Metals
Ponnada Crusher
Kamala Mandiram
Pariyaram P.O., Muttil
Kalpetta
Wayanad - 673122
By Adv.Alex M. Scaria

This case coming up for final hearing on 04.05.2022 and this Industrial Tribunal-cum-Labour Court on 06.05.2022 passed the following:

AWARD

1. This is a claim filed U/s 2A(2) of Industrial Disputes Act, 1947 .

2. The workman was employed as a supervisor since July 2007 by the Management. The workman was continuously employed by the Management since July 2007. The workman was denied employment since 30.10.2015 and retrenched from the service by the Management. The workman was not given any notice, notice pay or compensation as required under the ID Act. The retrenchment of the workman's service is resorted to in violation of the principles of last come first go as contained in Sec 25G of the ID Act, 1947. Since the retrenchment of the workman, Management has taken new hands in service and thus violated the provisions of Sec 25H of the Industrial Disputes Act, 1947. Retrenchment of workman's service is vitiated by malafide discrimination and vindictiveness. On 14.10.2015 when the workman reported for duty, the office staff of the Management prevented the workman from joining the duty. Even then the workman reported for duty. Thereafter on 30.10.2015 the Management denied employment to the workman.

3. The Management filed written statement denying the above allegations. The claimant does not come within the definition of 'workman' as he himself admits that he was discharging the functions as a supervisor. As supervisor he was part of the Management and therefore this industrial dispute is not maintainable. Sri.M.N. Deviprasad who is arrayed as the Management is not a Partner or Managing Partner of the Management. The claimant has been working as Manager of the Management since 01.03.2011, he was supervising the employees. From 2014 onwards the Panchayat did not renew the quarry license. Therefore the quarry was stopped and closed. The services of all the employees were terminated. Since the workman was part of Management, he was being paid salary without any work upto September 2015, when the Management restarted its functioning. As per the revised conditions, in tune with the substituted Minor Mineral Concession Rules and the Management was forced to comply with the statutory conditions including mine management in the quarry. Hence it was not possible to accommodate the workman in the same post as manager-cum-

supervisor. From September 2015, it became inevitable to place a Mines Manager as per the Metalipharous Mines Regulation, 1961. However his remuneration was not reduced. He was not comfortable with this new assignment and tried to create unrest and persuaded the workmen to create trouble. The Management requested the workman to relocate to some other institution of the Management or to study the operation of the work. He was not interested to work in the quarry in anyother post. He created problems in the functioning of the quarry and the Management lost confidence in him. In that circumstances he was asked to go out from the services of the Management. He received Rs.6000/- as advance from the Management. In addition he has also received Rs.61,000/-. He is bound to return the amount. The workman cannot sustain any claim U/s 25 of Industrial Disputes Act. There is no violation of Sec 25G and 25H of the Industrial Disputes Act. The workman is employed at present and is leading a good quality life. Since Sri.M.N. Deviprasad is not a Partner or Managing Partner of the Management. Any direction to him is not binding on Wayanad Metals. This industrial dispute is not even otherwise maintainable as the quarry was being run by M/s.Wayanad Metals was only a minor mineral quarry which comes U/s 15 of Mines and Minerals (Development and Regulation) Act, 1957. The Minor Mineral Concession Rule, 1967 is substituted with Minor Mineral Concession Rule, 2015 and which is applicable to the Management. Therefore only the State Industrial Tribunal have jurisdiction in this matter.

4. The workman filed a rejoinder denying the claims in the written statement by the Management. Even though the workman's designation was supervisor, he had no power to direct and control anybody subordinate to him. His duty was to supervise the work of the workers employed in the quarry of the Management and report to the Management. The workman was never part of the Management. The workman is a 'workman' of the Management being employed as a supervisor in the service of the Management since July 2007. The workman joined the service of the Management in July 2007 and worked continuously till 30.10.2015 when the workman was denied employment by the Management. The workman never caused any unrest among the workers as alleged by the Management. The workman never received any communication or order from the Management to relocate to some other institution of the Management. The workman also denied the allegation that he has taken an advance of Rs.67,000/- from the Management. The Management may be put to strict proof with regard to the contention that Sri.M.N. Deviprasad cannot represent M/s.Wayanad Metals even at the time of raising this industrial dispute.

5. After completion of the pleadings, the workman was examined as WW1 and Exbts.W1 to W3 are marked through him. There was no representation for the Management from 30.06.2021 onwards.

6. The issues to be decided in this industrial dispute are;

a. Whether the industrial dispute is maintainable ?

b. Whether the service of the workman is terminated in violation of Sec 25 of Industrial Disputes Act ?

c. Relief and cost?

7. <u>Issue No. 1</u>

The learned Counsel for the Management argued that the workman was working in the supervisory capacity as per his own admission and therefore he cannot be treated as a workman U/s 2(s) of the Industrial Disputes Act. According to the learned Counsel for the workman, though he was designated as supervisor he was only supervising the work of the workers employed in the quarry as a glorified worker and he was not entrusted with any managerial or administrative functions. The workman produced his Salary Certificate issued by the Manager of M/s.Wayanad Metals on 25.11.2010. According to the Exbt.W1 certificate, the workman was drawing a salary of Rs.6000/- per month. Further the workman also entered the witness box and gave evidence that he was employed by the Management as a supervisor and he was not doing any work of managerial or administrative nature. The Management failed to cross examine the workman or adduce any evidence to prove that the workman was indeed doing the managerial, supervisory or administrative work for the Management. As per Sec 2(s) of Industrial Disputes Act,

> "Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person –
>
> (i) ....
> (ii) ...
> (iii) ...
> (iv) ..."

The definition of workman in Sec 2(s) falls in 3 parts. The 1st part of definition given the statutory meaning of workman. The second part is designed to include something more in what the term primarily denotes. The 3rd part specifically excludes the categories of persons specified in clause 1-4 of the subsection. In **Rallis India Ltd Vs State of West Bengal and others,** 1983 2 LLJ (Cal) the Hon'ble High Court of Calcutta held that once the relationship of employer and employee is established, then its for the employer to show that the employee concerned falls in one of the excluded categories and as such is not a workman. In this case, as already pointed out, the workman was drawing a salary of Rs.6000/- per month and he has also entered the box and gave evidence saying that he was not doing any managerial or administrative functions with the Management. The question whether a person is employed in a supervisory capacity or a workman depends upon whether the main and principal duties carried out by him are those of Managerial character. In **Re: Shree Madhav Mlls Ltd**, 1966 (2) LLJ 827 (BOM) the Hon'ble High Court of Bombay held that if a person is employed to do any work which is not in managerial or administrative capacity, he will not be excluded from the definition of workman even if he draws more than the statutory limit. The Hon'ble Supreme Court in **Syndicate Bank Vs workman,** 1966 (2) LLJ 194 SC held that before a person who is doing supervisory work and whose wages do not exceed the statutory limit can be taken out the category of workmen, it must be shown that he is employed in fact and in substance mainly in a managerial or administrative capacity. The sum and substance of the law laid down in the above decisions is that the nature of duties performed by the person decides whether a particular person will come within the definition of workman U/s 2(s) of the Industrial Disputes Act and neither the salary/wages paid nor the designation will decide the question.

In the absence of any evidence to the contrary, it can only be concluded that the workman will come within the definition of Sec 2(s) of the Industrial Disputes Act.

8. The learned Counsel for the Management raised another preliminary objection that this industrial dispute is not maintainable as the Management is only a minor mineral quarry which comes U/s 15 of Mines and Minerals (Development and Regulation) Act, 1957. According to him, mines and minerals is a State subject and therefore this Tribunal will have no jurisdiction to adjudicate this dispute. The Management failed to produce any evidence to substantiate their claim and therefore it is not possible to accept the argument of the learned Counsel for the Management.

9. The learned Counsel for the Management also pleaded that Sri. M. N. Deviprasad cannot represent M/s.Wayanad Metals even at the time of making this application as he was not a Partner even at that point of time. It is seen that the Exbt.W3 statement dt.11.01.2016 filed before the Assistant Labour Officer, Kalpetta, Wayanad District in response to the notice dt.22.12.2015 is filed by Sri.M. N. Deviprasad as Managing Partner. Hence the burden of proof is on the Management to establish that Sri.M. N. Deviprasad was not a Partner or a Managing Partner as on the date of filing of the claim petition as on 16.11.2017. No such evidence is produced by the Management. It is seen that Sri.M. N. Deviprasad as Managing Partner of the Management filed an affidavit on 09.10.2019 in IA no.399/2019 and also filed written statement on the same day.

Taking into account all the above facts, I am inclined to hold that the industrial dispute is maintainable.

10. <u>Issue No.2</u>

According to the learned Counsel for the workman, the workman was working as a supervisor with the Management since July 2007 and his services were terminated on 30.10.2015 without following the mandatory procedures as per Sec 25F of the Act. The learned Counsel for the Management submitted that the workman was working with the Management w.e.f. 01.03.2011. He also admitted the fact that the service of the workman was terminated on 31.10.2015. In Exbt.W3 statement dt.11.01.2016 filed before the Assistant Labour Commissioner, Kalpetta, Wayanad, the Management has specifically stated that the workman joined the service of the Management on 01.04.2011 and his services were terminated w.e.f. 14.10.2015. Hence the Management cannot deny the fact that the services of the workman was terminated atleast w.e.f. 14.10.2015. There is no evidence on record to substantiate the claim of the workman that he joined the service of the Management in July 2007. However there is no evidence available to support the fact that he was in service of the Management from 01.07.2007. Further the Exbt.W1 Salary Certificate issued by M/s.Wayanad Metals to the workman dt.25.11.2010 would show that the workman was working with the Management as supervisor even prior to 01.04.2011.

11. According to the learned Counsel for the workman, he was in continuous service of the Management w.e.f. July 2007. The workman also entered the box and affirmed that he was in continuous service of the Management till 14.10.2015. Exbt.W3 would prove the fact that the workman was in continuous service of the Management w.e.f. 01.04.2011 to 14.10.2015. The Exbt.W1 Salary Certificate also proved that the workman was working on a monthly salary of Rs.6000/-. The learned Counsel for the workman relied on the decision of the Hon'ble Supreme Court of India in **Director, Fisheries Terminal Division Vs Bhikubhai**

Meghajibhai Chavda, 2010 KHC 6126 to argue that once the workman discharged his responsibility by producing the documents at his command, the burden shifts to the Management to prove that he has not worked for more than 240 days as required U/s 25B of the Act. In the above case the workman was a watchman who was paid daily wages and whose presence were marked in the Muster Roll. According to the Management the workman worked from 1986 till 1988 and during this period the workman had worked for 93 days, 145 days and 31 days respectively. According to them the workman had not worked for more than 240 days in the preceding year. The Hon'ble Supreme Court relying on the decision in **R. M. Yellatty Vs Assistant Executive Engineer**, 2006 1 SCC 106 held that

> " The respondent was a workman hired on daily wage basis. So it is obvious, as this Court pointed out in the above case that he would have difficulty in having access to all the above documents, Muster Roll etc., in connection with his service. He came forwarded and deposed, so in our opinion the burden of proof shift to the employer/appellant to prove that he did not complete 240 days of service in the requisite period to constitute continuous service ".

12. In the present case also it is seen that the workman was examined as WW1 and he stated in his evidence that he worked with the Management from 2011 to 2015. However he could produce supporting documents only for the year 2010. The learned Counsel relied on the decision of **Gauri Shankar Vs State of Rajasthan**, 2015 12 SCC 754. In the above case, the workman was working with the Management and his case was that he was appointed against a permanent and sanctioned post w.e.f. 01.01.1987 till his services came to be retrenched and he had rendered service of more than 240 days in every calendar year and has received salary from the respondent department each month. The workman challenged the retrenchment as bad in law as the same is in violation of Sec 25F, 25G, 25H, 25T and 25U of the ID Act. The workman applied for production of the Muster Roll and the management failed to produce the relevant Muster Rolls. The Hon'ble Supreme Court relying on its earlier decisions in **Gopal Krishna G Ketker Vs Muhammed Haji Latheef,** AIR 1968 SC 1413 and **Murukesam Pillai Vs Manikyavasaka Pandara,** 1917 5 LW 759 held that even if the burden of proof does lie on a party, the Court can draw an adverse inference if he withholds important documents in his possession which can throw light on the facts of issue. The learned Counsel for the workman also relied on the decision of the Hon'ble Supreme Court in **Sriram Industrial Enterprises Ltd Vs Mahak Singh and others**, 2007 4 SCC 94, wherein the Hon'ble Supreme Court held that when the workman discharged their initial onus by producing the documents in their possession, it is the responsibility of the management to disprove the claim of the workman that he did not work for more than 240 days with the management one year immediately prior to his/her termination. In this case there is no dispute regarding the fact that the workman was engaged on monthly wages. There is also no dispute with regard to the fact that his services were orally terminated w.e.f. 14.10.2015. The documents discussed above will substantiate the above points. The workman also produced evidence to show that he was paid wages from 01.04.2011 to 14.10.2015. He also entered the box and deposed that he worked with the Management continuously from 2007 to 2015. Hence it can safely be considered that the workman had discharged his responsibility of proving that he worked for more than 240 days in one year prior to his date of termination. In such circumstances as per the law laid down by the Hon'ble Supreme Court on the issue, it is possible to draw an adverse inference that he worked for more than 240 days in view of the fact that the Management failed to produce any documents to disprove his claim that he worked continuously for more than 240 days in one year prior to the date of his termination.

Hence from the facts and law discussed above, it is concluded that the workman had rendered continuous service of 240 days making him eligible for the benefits U/s 25F of the Industrial Disputes Act.

13. The Management has no case that they followed the procedure prescribed U/s 25F of the Industrial Disputes Act while terminating the service of the workman. In view of the above, it is clear that the Management terminated the service of the workman in clear violation of Sec 25F of the Industrial Disputes Act.

14. Considering the facts, pleadings and evidence as discussed above, I am inclined to hold that the retrenchment of the workman from the service of the Management is abinitio void and is in violation of Sec 25F of the Industrial Disputes Act.

15. <u>Issue No. 3</u>

It is already found that the retrenchment of the workman from the service of the Management is in violation of Sec 25 of the Industrial Disputes Act. Though the learned Counsel for the Management pleaded that he was employed after his termination by the Management, no evidence in this regard is produced by the Management to support their claim. The claim of the workman is to reinstate him with full back wages. It is seen that the termination of the workman is abinitio void. However taking into account the circumstances of this case, the interest of justice will be met if the Management is directed to pay 50% of the back wages. Hence the workman is entitled to be reinstated in the service of the Management with 50% back wages and other attended benefits.

16. Hence an award is passed holding that the retrenchment of the workman from the service of the Management is illegal and unjust and he is entitled to be reinstated in the service of the Management with 50% back wages, continuity of service and other attended benefits.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 6th day of May, 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witness for the Workman:-

WW1 - Sri. Shaji N. K. dt.16.12.2021

Witness for the Management:- Nil

Exhibits for the Workman:-

W1 - True copy of the certificate dt.25.11.2010 issued by the Management to workman

W2 - True copy of the Conciliation certificate issued by the Regional Labour Commissioner (Central)

W3 - True copy of explanation dt.11.01.2016 submitted by the Management before the Assistant Labour Officer, Kalpetta,Wayanad District

Exhibits for the Management:- Nil

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.